Volume 41
Number 22
August 1, 2024
Pages 1083 - 1710

The Oklahoma Register

Oklahoma
Secretary of State
Office of Administrative Rules

Kevin Stitt, Governor
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THE OKLAHOMA REGISTER is an official publication of the State of Oklahoma. It is published semi-monthly on the first working day of the month and on the first working day following the 14th day of the month under the authority of 75 O.S., Sections 250 et seq. and OAC 655:10-15-1. The rules of the State of Oklahoma are codified and published in the *Oklahoma Administrative Code.*

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SUBSCRIPTION RATES for the *Register* are $500.00 per year for the printed issues and $300.00 per year for the CD-ROM issues, payable in advance. When available, individual printed issues may be purchased for $20.00 plus the cost of postage, payable in advance. Make checks payable to "Secretary of State." Send subscription requests, change of address notices, and undelivered copies to: Secretary of State, Office of Administrative Rules, 421 NW 13th Street, Suite 210, Oklahoma City, OK 73103.

INFORMATION ABOUT THIS PUBLICATION may be obtained by contacting the OAR by mail at Oklahoma Secretary of State, Office of Administrative Rules, 421 NW 13th Street, Suite 210, Oklahoma City, OK 73103, by email at oar@sos.ok.gov, or by phone at (405) 521-4911. Information may also be obtained by visiting the OAR's office, located in Suite 220, Colcord Center, 421 NW 13th Street, Oklahoma City, between 8:00 a.m. and 5:00 p.m., Monday through Friday.

This publication is issued and printed by the Secretary of State as authorized by 75 O.S., Section 255. 27 copies have been prepared and distributed at a cost of $77.79. Copies have been deposited with the Oklahoma Department of Libraries, Publications Clearinghouse.
ISSN 0030-1728

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Permanent rules are effective ten days after publication in the Register, or on a later date specified by the agency in the preamble of the permanent rule document.
Permanent rules are published in the Oklahoma Administrative Code, along with a source note entry that cites the Register publication of the finally adopted rules in the permanent rule document.
For additional information on the permanent rulemaking process, see 75 O.S., Sections 303, 303.1, 308, 308.1 and 308.3.

TITLE 10. OKLAHOMA ACCOUNTANCY BOARD
CHAPTER 15. LICENSURE AND REGULATION OF ACCOUNTANCY

[OAR Docket #24-681]

RULEMAKING ACTION:
PERMANENT final adoption
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AUTHORITY:
Oklahoma Accountancy Board; Title 59, Oklahoma Statutes, Section 15.5(B)(6)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 4, 2023
COMMENT PERIOD:

November 1, 2023 through December 4, 2023
PUBLIC HEARING:
December 7, 2023
ADOPTION:
December 15, 2023
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
December 19, 2023
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
September 15, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
10:15-18-3
GUBERNATORIAL APPROVAL:
November 14, 2023
REGISTER PUBLICATION:
41 Ok Reg 329
DOCKET NUMBER:
23-889
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rule revisions result from the implementation of legislation passed during the 2023 legislation session, best practices as suggested by our national organization, and clean-up to provide clarity to readers. Changes to 10:15-3-2 states transcripts are required when applying for licensure while 10:15-18-1 defines what is considered the equivalent of a bachelor's degree. Changes to 10:15-18-4 updates rules to state 120 hours is needed to sit for the CPA exam. Beginning November 1, 2023, out of state firms will be exempt for registration under certain circumstances per legislation. This change is reflected in 10:15-3-1 and 10:15-23-2. Several best practices are being implemented through the rule changes. Oklahoma is looking to begin accepting nano-learning courses and ending the rounding method for continuing professional education as outlined in rules 10:15-1-2, 10:15-32-3, 10:15-32-5, and 10:15-32-6. Rule 10:15-30-8 amends the CPE Reciprocity exemption to allow those claiming this exemption to serve Oklahoma clients. Amendments to 10:15-18-3, 10:15-18-11, and 10:15-18-14 will lengthen the time allowed to pass the CPA exam from 18 to 30 months and add an extension request category for circumstances beyond the candidate's control. It also allows the Board to grant credit and candidacy extensions past the 30 months which line up with national standards and practice. Finally, there were several clean-up changes made. For rule changes in 10:15-3-1, 10:15-18-4, 10:15-18-13, 10:15-22-2, the amendments reflect either when a reference rule or statute was revoked or contained redundant language. For 10:15-23-2.1, 10:15-27-14, 10:15-43-1, and 10:15-43-4, the changes reflect small changes in statutes both inside and outside the Oklahoma Accountancy Act which affect our operations including withholding of licenses for noncompliance with Oklahoma tax laws, standards followed for government audits, and decreasing of a peer review fee. Rule changes to 10:15-30-5 adjust the language to clarify what information needs to be on CPE certificates for online courses as delivery has changed over the years. In regard to peer review, the changes to 10:15-33-5, 10:15-33-6, and 10:15-33-7 update language to reflect current peer review standards and practices.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 15, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

10:15-1-2. Definitions [AMENDED]

In addition to the terms defined in the Oklahoma Accountancy Act, the following words or terms shall be applied when implementing that Act and, when used in this Chapter shall have the following meaning, unless the context clearly indicates otherwise:

"Accounting information system (AIS)" means a subsystem of the management information system within an organization. The accounting information system collects and records financial and related information used to support management decision making and to meet both internal and external financial reporting requirements. An AIS system includes, but is not limited to, the accounting for transactions cycles such as revenues and receivables, purchases and payables, payroll, inventory, cash receipts and cash disbursements, and related data based systems.

"Act" means the Oklahoma Accountancy Act, Oklahoma Statutes, Title 59, §§ 15.1 through 15.38, dealing with the practice of public accountancy in Oklahoma.

"Active" when used to refer to the status of a registrant, describes an individual who possesses a certificate or license and who has not otherwise been granted "retired" or "inactive" status.

"Advanced" means the learning activity level most useful for individuals with mastery of the particular topic. This level focuses on the development of in-depth knowledge, a variety of skills, or a broader range of applications. Advanced level programs are often appropriate for seasoned professionals within organizations; however, they may also be beneficial for other professionals with specialized knowledge in a subject area.

"Basic" means the learning activity level most beneficial to registrants new to a skill or an attribute. These individuals are often at the staff or entry level in organizations, although such programs may also benefit a seasoned professional with limited exposure to the area.

"Code" means Title 10 of the Oklahoma Administrative Code.

"Compensation" means the receipt of any remuneration of any kind for public accounting services, including but not limited to salary, wages, bonuses or receipt of any tangible or intangible thing of value.

"Continuing Professional Education" means the set of activities that enables registrants to maintain and improve their professional competence. It is an integral part of the lifelong learning required to provide competent service.

"CPE" means continuing professional education.

"CPE credit" means fifty minutes of participation in a group, independent study or self-study program. One-half CPE credit increments (equal to 25 minutes) are permitted after the first credit has been earned in a given learning activity with such standard remaining through December 31, 2024, whereupon the amount of CPE credit accepted by the Board may be in any decimal increment.

"CPE program sponsor" means the individual or organization responsible for setting learning objectives, developing the program materials to achieve such objectives, offering a program to participants, and maintaining the documentation required by these standards. The term CPE program sponsor may include associations of CPAs or PAs, whether formal or informal, as well as employers who offer in-house programs.

"Evaluative feedback" means specific response to incorrect answers to questions in self-study programs. Unique feedback must be provided for each incorrect response, as each one is likely to be wrong for differing reasons.

"Examining Authority" means the agency, board or other entity, of the District of Columbia, or any state or territory of the United States, entrusted with the responsibility for the governance, discipline, registration, examination and award of certificates, licenses or conditional credits for certified public accountants or public accountants and the practice of public accountancy in said jurisdictions.

"Generally accepted accounting principles" means the same as Financial Accounting Standards Board (FASB) Accounting Standards Codification Section 105, "Generally Accepted Accounting Principles."

"Generally accepted auditing standards" means those standards which are used to measure the quality of the performance of auditing procedures and the objectives to be obtained by their use. Statements on Auditing Standards issued by the American Institute of Certified Public Accountants, Standards for Audit of Government Organizations, Programs, Activities and Functions issued by the Comptroller General of the United States, Standards of the Public Company Accounting Oversight Board (PCAOB) and other pronouncements having similar generally recognized authority, are considered to be interpretations of generally accepted auditing standards, and departures from such pronouncements, where they are applicable, must be justified by those who do not follow them.

"Group program" means an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants either in a classroom or conference setting or by using the Internet.

"Immediate family members" means the registrant's, or his/her spouse's, lineal and collateral heirs.

"Inactive" used to refer to the status of a registrant who is exempt from complying with the CPE requirements as provided in Subchapter 10:15-30-8(1)(B),(C),(D), and (E). However, inactive status does not preclude volunteer services for which the inactive registrant receives no direct or indirect compensation so long as the inactive registrant does not sign any documents related to such services as a CPA or PA.

"Independent study" means an educational process designed to permit a participant to learn a given subject under a learning contract with a CPE program sponsor.

"Instructional methods" means delivery strategies such as case studies, computer-assisted learning, lectures, group participation, programmed instruction, teleconferencing, use of audiovisual aids, or work groups employed in group, self-study, or independent study programs.

"Intermediate" means learning activity level that builds on a basic program, most appropriate for registrants with detailed knowledge in an area. Such persons are often at a mid-level within the organization, with operational and/or supervisory responsibilities.

"Internet-based programs" means a learning activity, through a group program or a self-study program, that is designed to permit a participant to learn the given subject matter via the Internet. To qualify as either a group or self-study program, the Internet learning activity must meet the respective standards.

"Learning activity" means an educational endeavor that maintains or improves professional competence.

"Learning contract" means a written contract signed by an independent study participant and a qualified CPE program sponsor prior to the commencement of the independent study that:

(A) Specifies the nature of the independent study program and the time frame over which it is to be completed, not to exceed 15 weeks.

(B) Specifies that the output must be in the form of a written report that will be reviewed by the CPE program sponsor or a qualified person selected by the CPE program sponsor.

(C) Outlines the maximum CPE credit that will be awarded for the independent study program, but limits credit to actual time spent.

"Learning objectives" means specifications on what participants should accomplish in a learning activity. Learning objectives are useful to program developers in deciding appropriate instructional methods and allocating time to various subjects.

"Learning plans" means structured processes that help registrants guide their professional development. They are dynamic instruments used to evaluate and document learning and professional competence development. This may be reviewed regularly and modified, as registrants' professional competence needs change. Plans include:

(A) A self-assessment of the gap between current and needed knowledge, skills, and abilities;

(B) A set of learning objectives arising from this assessment; and

(C) Learning activities to be undertaken to fulfill the learning plan.

"Licensee" means an individual designated as a CPA, PA, or equivalent designation in another state.

"Management information system (MIS)" means a computer or manual system, or a group of systems, within an organization that is responsible for collecting and processing data to ensure that all levels of management have the information needed to plan, organize, and control the operations of the organization and to meet both internal and external reporting requirements.

"Nano-learning" a nano-learning course is a tutorial program designed to permit a participant to learn a given subject in a ten-minute increment using electronic media and without interaction with a real time instructor.

"Office" means a building, room, or series of rooms which are owned, leased, or rented by an individual or firm for the purpose of holding out or carrying out the practice of public accounting.

"Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, sole proprietorship, an association, two or more persons having a joint or common interest, an employer of CPAs or PAs, or any other legal or commercial entity.

"Other professional standards" means those standards as defined by Statements on Management Advisory Services, Statements on Responsibilities in Tax Practice, Statements on Standards for Accounting and Review Services and Statements of Quality Control Standards, where applicable, issued by the American Institute of Certified Public Accountants.

"Overview" means learning activity level that provides a general review of a subject area from a broad perspective. These programs may be appropriate for professionals at all organizational levels.

"Personal development" means a field of study that covers such skills as communications, managing the group process, dealing effectively with others, interviewing, counseling, and career planning.

"Pilot test" means sampling of at least three independent individuals representative of the intended participants to measure the average completion time to determine the recommended CPE credit for self-study programs.

"Professional competence" means having requisite knowledge, skills, and abilities to provide quality services as defined by the technical and ethical standards of the profession. The expertise needed to undertake professional responsibilities and to serve the public interest.

"Reinforcement feedback" means specific responses to correct answers to questions in self-study programs. Such feedback restates why the answer selected was correct.

"Renewal permit" refers to a permit applied for prior to the expiration of the current permit.

"Retired" means a registrant who holds a certificate or license and verifies to the Board that the registrant is no longer practicing public accounting or employed. However, retired status does not preclude volunteer services for which the retired registrant receives no direct or indirect compensation so long as the retired registrant does not sign any documents related to such services as a CPA or PA.

"Rolling three (3) calendar year period" means that active status registrants are required to complete 120 hours of CPE in any three-calendar-year period.

"Self-study program" means an educational process designed to permit a participant to learn a given subject without major involvement of an instructor. Self-study programs use a pilot test to measure the average completion time from which the recommended CPE credit is determined.

"Sole Proprietorship" means an unincorporated business enterprise which is owned entirely by one (1) certificate or license holder.

"State" means the District of Columbia, any state, or territory of the United States.

"Update" means learning activity level that provides a general review of new developments. This level is for participants with a background in the subject area who desire to keep current.

SUBCHAPTER 3. REQUIREMENTS TO PRACTICE PUBLIC ACCOUNTANCY

10:15-3-1. Who may practice public accountancy [AMENDED]

Except for qualified individuals practicing under substantial equivalency, public accounting may be practiced in this state only by a registrant which holds a valid permit to practice issued by the Board. Registrants may not practice public accounting through an entity which does not hold a valid permit ~~except under the provisions of 10:15-39-8(a)(2)~~or is not operating under Section 15.15 of Title 59. The Board grants certificates, licenses, or permits to practice to applicants on condition that the registrants comply with the provisions of the Oklahoma Accountancy Act and the rules adopted for the implementation of that Act.

10:15-3-2. Certificate as a certified public accountant [AMENDED]

A certificate may be issued to a qualified applicant only after:

(1) The examination has been satisfactorily completed;

(2) Transcripts have been submitted verifying the educational requirements as set out in Title 59, Section 15.9(D) have been met;

~~(2)~~(3) Evidence, by means established in Title 59, Section 15.9 of the Act, is obtained to substantiate that the applicant is of good moral character;

~~(3)~~(4) Documentation has been provided that the certification applicant has a total of Eighteen hundred (1,800) hours of part time or full time work experience in accounting as described in Title 59, Section 15.9.E of the Act. Work experience must have been obtained within the four (4) years immediately prior to filing the application for certification. This requirement may be satisfied through work experience in government, industry, academia, or public practice. Acceptable work experience includes accounting, attest, tax, and related services. Approved documentation of experience must be provided in a format prescribed by the Board. If the work experience is denied, the applicant may file a written request with the Board for a review of the denial. The applicant shall have the burden of demonstrating to the Board that the requirements under this section have been met. Any evidence submitted by the applicant shall be in documentary form, and

~~(4)~~(5) Evidence of successful completion of the AICPA ethics examination or its equivalent as determined by the Board has been provided.

SUBCHAPTER 18. COMPUTER-BASED EXAMINATION

10:15-18-1. Applications for examination [AMENDED]

(a) An application for qualification in a format prescribed by the Board, will not be considered filed until the application and all required fees as provided by §15.8 of the Act and supporting documents, including but not limited to photographs and official transcripts as proof that the applicant has satisfied the education requirement, are received by the Board. The Board will consider the equivalent of a bachelor's degree to mean when all requirements of a bachelor's degree have been completed with final awarding only delayed by the completion of a master's degree when the student is in a dual degree program, or an administrative process being carried out by the college before the formal awarding of the degree.
(b) Evidence, by submission to a national criminal history record search, that the applicant has not committed a criminal offense that would disqualify the applicant from holding a certificate or license;
(c) A candidate's application for examination will not be considered filed until the application in a format prescribed by the Board and the application fee as provided in Subchapter 27 are received by the Board.
(d) Failure of a candidate to furnish all information requested by the Board within the time frame set by the Board shall be grounds for denying such candidate admission to the examination.
(e) Any candidate who gives false information to the Board in order to be eligible to take the examination shall be subject to disciplinary action by the Board.

10:15-18-3. Retake and granting of credit requirements [AMENDED]
(a) A grade of seventy-five (75) in each required test section shall be the minimum passing grade for purposes of granting credit.
(b) A candidate may take the required test sections individually and in any order. Credit for any test section(s) passed shall be valid for ~~eighteen~~thirty months from the date ~~the candidate took that test section~~the passing score for such test section is released by NASBA, without having to attain a minimum score on any failed test section(s) and without regard to whether the candidate has taken other test sections. A CPA candidate must pass all four test sections of the AICPA Uniform CPA Examination within a rolling ~~eighteen-month~~thirty-month period, which begins on the date that the first test section(s) ~~passed is taken~~passing score(s) is released by NASBA to the candidate. The rolling thirty-month period concludes on the date the candidate sits for the final test section passed, regardless of when the score is released by NASBA for the final test section. In the event all four test sections of the AICPA Uniform CPA Examination are not passed within the rolling ~~eighteen-month~~thirty-month period, credit for any test section(s) passed outside the ~~eighteen-month~~thirty-month period will expire and that/those test section(s) must be retaken. A new rolling thirty-month period shall begin on the date the first remaining unexpired passing score(s) was released by NASBA to the candidate and continue for thirty-months from that date. This period calculation method will be applied each time a test section credit expires.
(c) A candidate shall be deemed to have passed the CPA examination once the candidate holds at the same time valid credit for passing each of the four test sections of the examination within the rolling ~~eighteen-month~~thirty-month period. For purposes of this section, credit for passing a test section of the computer-based examination is valid from the actual date ~~of the testing event for that test section, regardless of the date the candidate actually receives notice of the passing grade~~that the first test section(s) passing score(s) is released by NASBA to the candidate.
(d) Provided, however, that regardless of the language in subsections (b) and (c) that restricts valid exam credits to a rolling thirty-month period, the Board may authorize time-limited credit and candidacy extensions consistent with national standards and practice.
(e) A candidate may not retake a failed test section until the candidate has been notified of the score for the most recent attempt of that failed test section.

10:15-18-4. Educational requirements [AMENDED]
(a) A qualification applicant shall show, to the satisfaction of the Board, that the applicant has graduated from an accredited four-year college or university.

(1) As to an applicant whose college credits are reflected in quarter hours, each quarter hour of credit shall be considered as two-thirds (2/3) of one (1) semester hour when determining semester hour credits necessary to qualify for examination or transfer of credits.
(2) When determining eligibility based on educational qualifications, the Board shall consider only educational credit reflected on official transcripts, from an accredited two-year or four-year college or university.
(3) The Board may accept as temporary consideration, an official letter signed and sealed by the registrar's office of any two-year or four-year college or university attesting to the completion of educational qualifications of any qualification applicant, provided that official transcripts are submitted to the Board prior to any score release.
(4) The specific requirement that each applicant shall have completed at least one (1) course in auditing may only be satisfied with an auditing or assurance course taken for credit from an accredited two-year or four-year college or university. Such coursemust have a concentration on external auditing standards including but not limited to Statements on Auditing Standards (SAS).

(b) When determining eligibility of a qualification applicant, the Board shall not consider any combination of education and experience.
(c) The Board will also consider a qualification applicant who has graduated from a college or university located outside the United States if an educational evaluation performed by a national credential evaluation service, as approved by the Board, certifies in writing that the applicant's course of study and degree are equivalent to the requirements set forth in Section 15.8 of the Act.
(d) One hundred ~~fifty (150)~~twenty (120) semester hours or its equivalent of collegiate education is required to qualify for any examination as set forth in Section ~~15.8.C.~~15.8(B) of the Oklahoma Accountancy Act. Any MIS or AIS course, or derivative thereof, as defined in 10:15-1-2, used by the applicant to qualify must have a substantial relationship, either direct or indirect, to the accounting profession. ~~However, only AIS courses will qualify for the core accounting courses as required in Section 15-8.C.~~
(e) Any candidate who has qualified to take the examination on the basis of education prior to July 1, 2003, is not subject to subparagraph (d) of this subsection.

10:15-18-11. Requests for extension of time [AMENDED]
(a) A candidate may apply for an extension of the time limits set by this Subchapter if the candidate is called to active military service, ~~or~~ becomes incapacitated as a result of illness or injury, or experiences another significant event beyond the candidate's control.
(b) The candidate shall file a written request with the Board for an extension ~~after receiving the call to active military service and shall furnish a copy of the orders to active military service or furnish written evidence of incapacitation or injury~~.

(1) If requesting an extension because of a call to active military service, after receiving the call the candidate shall furnish a copy of the orders to active military service to the Board.
(2) If requesting an extension because of illness or injury, furnish written evidence of incapacitation or injury to the Board along with the written extension request. The candidate shall furnish a copy of an original and signed diagnosis directly related to the injury or illness from a licensed, qualified physician. The professional must provide a precise statement setting forth the determination that the illness or injury precludes the candidate from testing and the time period involved. The Board will follow federal Health Insurance portability and Accountability Act (HIPAA) guidelines.
(3) If requesting an extension because of a significant event beyond the candidate's control, the candidate must outline the circumstances, how this will prevent them from successfully testing, and any measures the candidate has or will take to attempt to overcome the obstacle to testing. In this narrative the candidate must demonstrate the circumstances were beyond the candidate's control.

(c) Within sixty (60) calendar days after the candidate is discharged from active military service, the candidate shall furnish the Board with copies of the discharge orders. The candidate shall ~~then~~ be required to take one (1) test section for which the candidate is eligible within the next six (6) months following the ~~candidate's discharge from military service or rehabilitation from incapacitation or injury~~resolution of the circumstances which prevented the candidate from testing.
~~(d) The candidate shall file a written request with the Board for an extension should serious illness or injury incapacitate the candidate to the extent that the illness or injury prevents the candidate from examination testing. The candidate shall furnish a copy of an original and signed diagnosis directly related to the injury or illness from a licensed, qualified physician. The professional must provide a precise statement setting forth the determination that the illness or injury precludes the candidate from testing and the time period involved. The Board will follow federal Health Insurance Portability and Accountability Act (HIPAA) guidelines.~~

10:15-18-13. Requirements to qualify for transfer of credits [AMENDED]
(a) Upon the filing of an application to transfer credits on the AICPA Uniform Certified Public Accountant Examination, the Board shall accept and transfer such credits, if, at the time the application to transfer credits is filed with the Board, the applicant has met the following requirements:

(1) The credits were earned by the applicant while taking an examination administered by the examining authority responsible for conducting such examinations pursuant to the laws of any jurisdiction.
(2) The applicant was examined and passed all subjects of the AICPA Uniform Certified Public Accountant Examination in the same manner as required for Oklahoma candidates.
(3) All credits were earned pursuant to Rule 10:15-18-3 immediately preceding the date the application to transfer credits is filed with the Board.

(b) In the case of an applicant for examination who has met all eligibility requirements and seeks to transfer credits, the acceptance of such credits by the Board shall result in the applicant being approved to take the examination in the subjects for which no credit was transferred.
(c) In the case of an applicant for a certificate who has met all requirements as provided in §15.9 and seeks to transfer the four (4) credits, the acceptance of such credits by the Board shall result in the issuance of a certificate to the applicant.
~~(d) In the case of an applicant for a license who has met all requirements as provided in §15.9 and seeks to transfer the three (3) credits, the acceptance of such credits by the Board shall result in the issuance of a license to the applicant.~~

10:15-18-14. Failure to apply to take succeeding examinations [AMENDED]

If a candidate fails to sit for a test section for ~~eighteen (18)~~thirty (30) months after approval, or fails to sit for one (1) test section for ~~an eighteen (18)~~a thirty (30) month period, that individual shall no longer be considered a candidate and must reapply as a qualification applicant and meet the qualification requirements in effect at the time of making application.

SUBCHAPTER 22. SUBSTANTIAL EQUIVALENCY [REVOKED]

10:15-22-2. Sole proprietorship firm permit [REVOKED]

~~A qualified non-resident sole proprietorship seeking practice privileges in this state to perform attest services shall be required to register the firm and obtain a permit to practice public accounting within thirty (30) days after the firm knowingly avails itself of the laws of this state by accepting an attest engagement.~~

SUBCHAPTER 23. REGISTRATION

10:15-23-2. Registration of firms [AMENDED]

(a) On or before June 30 of each year all firms of certified public accountants and all firms of public accountants qualified and required to register shall file a registration statement with the Board in a format prescribed by the Board.
(b) The registration statement filed on behalf of a firm of certified public accountants shall be made by a partner or shareholder.
(c) The statement filed on behalf of a firm of public accountants shall be made by a partner or shareholder.
(d) Evaluation of qualifications and approval of registrations filed by firms shall be performed by the Executive Director or his/her designee, subject to the review and supervision of the Board.
(e) Denial of firm registrations shall be by the Board.
(f) Except for sole proprietorships, all registration statements filed on behalf of a firm shall be accompanied by an annual registration fee and the applicable permit fee for the firm, as provided in Subchapter 27.
(g) Firm filings delivered to the Board office via carrier service with a postmark or ship date on or before June 30 shall be deemed timely filed.

10:15-23-2.1. Non-CPA owners of public accounting firms or affiliated entities [AMENDED]

(a) A firm which includes non-CPA owners may not qualify for a firm registration and permit unless every non-CPA owner of the firm:
(1) is an individual;
(2) is actively providing personal services in the nature of management of some portion of the firm's business interest or performing services for clients of the firm or an affiliated entity;
(3) is of good character as defined in Section 15.9 of the Act;
(4) is not a suspended or revoked CPA or PA;
(5) who is a resident of Oklahoma is registered with the Board in the same manner as a CPA under Section 15.14 of the Oklahoma Accountancy Act on a form prescribed by the Board.
(b) Each of the non-CPA owners who are residents of Oklahoma must:
~~(1) be in compliance with Oklahoma tax laws;~~
~~(2)~~(1) provide evidence of the successful completion (90% or better), within the past 365 days prior to initial registration, of the AICPA Ethics Examination or its equivalent as determined by the Board;
~~(3)~~(2) comply with the Rules of Professional Conduct as set out in 10:15-39-1;
~~(4)~~(3) hold a baccalaureate or graduate degree conferred by a college or university, or equivalent education as determined by the Board;

~~(5)~~(4) maintain any professional designation held by the individual in good standing with the appropriate organization or regulatory body that is identified or used in an advertisement, letterhead, business card, or other firm-related communication;
~~(6)~~(5) maintain continuing education in accordance with Section 10:15-32-1, provided credit shall be given for any other professional CPE or equivalent professional continuing education earned;
~~(7)~~(6) submit to a national criminal history record check. The costs associated with the record check shall be paid by the non-CPA owner.
(7) consent to the personal and subject matter jurisdiction and disciplinary authority of the Board.

(c) A "Non-CPA Owner" includes any individual who has any financial interest in the firm or any voting rights in the firm.

SUBCHAPTER 27. FEES

10:15-27-14. Peer review fee [AMENDED]

There shall be a peer review fee of not greater than One Hundred ~~Twenty-five~~ Dollars ~~($125.00)~~($100.00) for every modified, pass with deficiency, fail, or report which requires follow up filed with the Board.

SUBCHAPTER 30. CONTINUING PROFESSIONAL EDUCATION

10:15-30-5. Reporting and documentation by certificate and license holders [AMENDED]

(a) Certificate and license holders not otherwise exempt must complete one hundred twenty (120) hours of qualifying CPE within a rolling three (3) calendar year period. A certificate or license holder's rolling three (3) calendar year period begins January 1 in the year the certificate or license holder was required to earn CPE. A minimum of twenty (20) hours of acceptable CPE, shall be completed each calendar year. Effective January 1, 2009, four hours of professional ethics must be completed within each rolling three (3) calendar year period.
(b) Each certificate or license holder shall annually report CPE for the preceding calendar year or claim an exemption to the CPE requirement for the preceding calendar year. This reporting shall take place in conjunction with the filing of the certificate or license holder's annual registration renewal based on the certificate or license holder's birth month.
(c) The professional ethics requirement as mandated in this section may be met by courses from other licensed professional disciplines that relate directly to the practice of public accounting, such as law or securities and may be met by courses on ethical codes in jurisdictions other than Oklahoma.
(d) CPE hours claimed for credit may be claimed only for the compliance period in which the course was completed and credit granted.
(e) Each letter or certificate of completion shall include the date of completion of the seminar or course as evidenced by:
(1) Date the in-attendance course was completed;
(2) Date a self-study course was completed and evidenced by the date of certified mailing or date of facsimile transmission to the program sponsor;
(3) Date an internet self-study course is transmitted to the program sponsor or the online exam is passed.
(f) At the time of completing each course, or within sixty (60) days thereafter, the certificate or license holder shall obtain a letter or certificate attesting to completion of the course from the sponsor of the course. Such letters or certificates shall be retained for a period of five (5) years after the end of the calendar year in which the program is completed and shall include the specific information set forth in the Board's CPE Standards in 10:15-32-6(a).
(g) Participants in CPE programs shall also retain descriptive material for five (5) years which reflects the content of a course in the event the participant is requested by the Board to substantiate the course content. Examples of such descriptive materials might include:
(1) course descriptions;
(2) course outlines; and
(3) course objectives.
(h) If a certificate or license holder's main area of employment is industry and the certificate or license holder holds a permit to practice, at least seventy-two (72) hours of the one hundred twenty (120) hour requirement within a rolling three (3) calendar year period of the qualifying CPE completed by the certificate or license holder shall be in subjects related to the practice of public accounting and shall earn a minimum of eight (8) hours in the areas of taxation, accounting or assurance per calendar year.
(i) Effective January 1, 2011, if a certificate or license holder is actively involved in the supervision or review of compilation engagements for third party reliance, the certificate or license holder must complete a minimum of four (4) credits of CPE in the subject area of compilation engagements in each calendar year. This requirement shall be waived if:

(1) the certificate or license holder works for a public accounting firm currently enrolled in a peer review program with an approved sponsoring organization; or
(2) the certificate or license holder is a sole proprietorship currently enrolled in a peer review program with an approved sponsoring organization.

10:15-30-8. Exceptions to CPE reporting requirements [AMENDED]

All certificate and license holders must comply with CPE reporting requirements unless exempted below.

(1) The Board exempts from the requirements of CPE the following classifications:

(A) Retired certificate or license holders who are no longer employed or practicing public accounting;

(B) Certificate or license holders who are on active military service;

(C) Disabled certificate or license holders who are no longer employed or practicing public accounting due to medical circumstances;

(D) Certificate or license holders who are (A) not employed due to circumstances other than retirement, military service or disability or (B) certificate or license holders employed but not performing any services associated with accounting work. For purposes of this section, the term "associated with accounting work" shall include but is not limited to the following:

(i) working or supervising work performed in the areas of financial accounting and reporting; tax compliance, planning or advice; management advisory services; accounting information systems; treasury, finance or audit or preparing personal financial statements or investment plans; or

(ii) representing to the public, including an employer, that the registrant is a CPA or PA in connection with the performance or sale of any services or products involving accounting work, including such designation on a business card, letterhead, promotional brochure, advertisement, office, website or any electronic media.

(E) Certificate or license holders who reside and are registered as a CPA or PA in another state~~, who do not serve Oklahoma clients,~~ and who demonstrate compliance with the resident state's CPE requirements. Registrants whose state of residence does not have a CPE requirement shall comply with Oklahoma CPE reporting requirements.

(F) Other good cause as determined by the Board on an individual basis.

(2) In order to be granted an exemption based on 10:15-30-8(1) above, certificate and license holders must request an exemption each year in a format prescribed by the Board as required in 10:15-30-5(b). An exemption may be denied at any time if it is determined that the certificate or license holder was not eligible for the exemption claimed.

(3) In order for an exemption to be granted under 10:15-30-8(1) above, the Board may require the following affidavits:

(A) The registrant completes and forwards to the Board a sworn affidavit indicating that the registrant will not be associated with accounting work during the period for which the exemption is requested. A registrant who has been granted this exemption and who re-enters the work force shall be required to comply with 10:15-30-9; and

(B) The registrant forwards to the Board a sworn affidavit from the employer or organization indicating no association with accounting work. The affidavit shall include, as a minimum, a brief description of the duties performed, job title, and verification by the registrant's immediate supervisor that there is no reliance on the registrant's expertise as a CPA or PA.

(C) The registrant completes and forwards to the Board a sworn affidavit indicating that the registrant resides out of state, is registered as a CPA or PA in that state, ~~is not serving Oklahoma clients,~~ and is compliant with the resident state's CPE requirement.

(4) The Executive Director or his/her designee may grant extensions or exemptions for good cause on a case by case basis, and a report of such actions shall be provided to the Board.

(5) A certificate or license holder exempt from the requirement of CPE by reason of retirement or inactive status must indicate "retired" or "inactive" if they use their "CPA" or "PA" designation in any manner.

SUBCHAPTER 32. STANDARDS FOR CONTINUING PROFESSIONAL EDUCATION (CPE) PROGRAMS

10:15-32-3. Standards for CPE Program Development [AMENDED]

(a) Sponsored learning activities must be based on relevant learning objectives and outcomes that clearly articulate the knowledge, skills, and abilities that can be achieved by participants in the learning activities. Learning activities provided by CPE program sponsors for the benefit of CPAs should specify the level, content, and learning objectives so that potential participants can determine if the learning activities are appropriate to their professional competence development needs. Levels include, for example, basic, intermediate, advanced, update, and overview.
(b) CPE program sponsors should develop and execute learning activities in a manner consistent with the prerequisite education, experience, and/or advance preparation of participants. To the extent it is possible to do so, CPE program sponsors should make every attempt to equate program content and level with the backgrounds of intended participants. All programs must clearly identify prerequisite education, experience, and/or advance preparation, if any, in precise language so that potential participants can readily ascertain whether they qualify for the program.
(c) CPE program sponsors must use activities, materials, and delivery systems that are current, technically accurate, and effectively designed. CPE program sponsors must be qualified in the subject matter.

(1) To best facilitate the learning process, sponsored programs and materials must be prepared, presented and updated timely. Learning activities must be developed by individuals or teams having expertise in the subject matter. Expertise may be demonstrated through practical experience or education.

(2) CPE program sponsors must review the course materials periodically to assure that they are accurate and consistent with currently accepted standards relating to the program's subject matter.

(d) CPE program sponsors of group and self-study programs must ensure learning activities are reviewed by qualified persons other than those who developed them to assure that the program is technically accurate and current and addresses the stated learning objectives. These reviews must occur before the first presentation of these materials and again after each significant revision of the CPE programs. Individuals or teams qualified in the subject matter must review programs. When it is impractical to review certain programs in advance, such as lectures given only once, greater reliance should be placed on the recognized professional competence of the instructors or presenters. Using independent reviewing organizations familiar with these standards may enhance quality assurance.
(e) CPE program sponsors of independent study learning activities must be qualified in the subject matter. A CPE program sponsor of independent study learning activities must have expertise in the specific subject area related to the independent study. The CPE program sponsor must also:

(1) Review, evaluate, approve and sign the proposed independent study learning contract, including agreeing in advance on the number of credits to be recommended upon successful completion.

(2) Review and sign the written report developed by the participant in independent study.

(3) Retain the necessary documentation to satisfy regulatory requirements as to the content, inputs, and outcomes of the independent study.

(f) Self-study programs must employ learning methodologies that clearly define learning objectives, guide the participant through the learning process, and provide evidence of a participant's satisfactory completion of the program.

(1) To guide participants through a learning process, CPE program sponsors of self-study programs must elicit participant responses to test for understanding of the material, offer evaluative feedback to incorrect responses, and provide reinforcement feedback to correct responses. To provide evidence of satisfactory completion of the course, CPE program sponsors of self-study programs must require participants to successfully complete a final examination with a minimum-passing grade of at least 70 percent before issuing CPE credit for the course. To provide evidence of satisfactory completion of a nano-learning course, CPE program sponsors must require participants to successfully complete a final examination with a 100 percent score before issuing CPE credit for that course. Examinations may contain questions of varying format, (for example, multiple-choice, essay and simulations.) If objective type questions are used, at least five questions per CPE credit must be included on the final examination. For example, the final examination for a five-credit course must include at least 25 questions.

(2) Self-study programs must be based on materials specifically developed for instructional use. Self-study programs requiring only the reading of general professional literature, IRS publications, or reference manuals followed by a test will not be acceptable. However, the use of the publications and reference materials in self-study programs as supplements to the instructional materials could qualify if the self-study program complies with each of the CPE standards.

10:15-32-5. Standards for CPE program measurement [AMENDED]
(a) Sponsored learning activities are measured by program length, with one 50-minute period equal to one CPE credit. One-half CPE credit increments (equal to 25 minutes) are permitted after the first credit has been earned in a given learning activity with such standard remaining through December 31, 2024, whereupon the amount of CPE credit accepted by the Board may be in any decimal increment.

(1) For learning activities in which individual segments are less than 50 minutes, the sum of the segments should be considered one total program. For example, five 30-minute presentations would equal 150 minutes and should be counted as three CPE credits. When the total minutes of a sponsored learning activity are greater than 50, but not equally divisible by 50, the CPE credits granted ~~should be rounded down to the nearest one-half credit. Thus, learning activities with segments totaling 140 minutes should be granted two and one-half CPE credits~~ will be the total number of minutes divided by fifty.

(2) While it is the participant's responsibility to report the appropriate number of credits earned, CPE program sponsors must monitor group learning activities to assign the correct number of CPE credits.

(3) For university or college credit courses that meet these CPE Standards, each unit of college credit shall equal the following CPE credits:

(A) Semester System 15 credits; and

(B) Quarter System 10 credits;

(4) For university or college non-credit courses that meet these CPE standards, CPE credits shall be awarded only for the actual classroom time spent in the non-credit course.

(5) Credit is not granted to participants for preparation time.

(6) Only the portions of committee or staff meetings that are designed as programs of learning and comply with these standards qualify for CPE credit.

(b) CPE credit for self-study learning activities must be based on a pilot test of the average completion time. A sample of intended professional participants should be selected to test program materials in an environment and manner similar to that in which the program is to be presented. The sample group of at least three individuals must be independent of the program development group and possess the appropriate level of knowledge before taking the program. The sample does not have to ensure statistical validity. CPE credits should be recommended based on the average completion time for the sample. If substantive changes are subsequently made to program materials further pilot tests of the revised program materials should be conducted to affirm or amend, as appropriate, the average completion time. Self-study courses considered for CPE credit must be:

(1) offered by sponsors registered with NASBA; or

(2) courses offered by the AICPA or other such organizations as determined by the Board.

(c) Instructors or discussion leaders of learning activities should receive CPE credit for both their preparation and presentation time to the extent the activities maintain or improve their professional competence and meet the requirements of these CPE standards.

(1) Instructors, discussion leaders, or speakers who present a learning activity for the first time should receive CPE credit for actual preparation time up to two times the number of CPE credits to which participants would be entitled, in addition to the time for presentation.

(2) Instructors of university or college courses can claim a maximum of fifteen (15) CPE credits per college credit hour taught to the extent the preparation required for the course maintains or improves their professional competence.

(3) For repeat presentations, CPE credit as provided in (1) and (2) above can be claimed only if it can be demonstrated that the learning activity content was substantially changed and such change required significant additional study or research.

(d) Writers of published articles, books, or CPE programs should receive CPE credit for their research and writing time to the extent it maintains or improves their professional competence. CPE credit from this activity shall be limited to 10 CPE credits per calendar year and will be determined by the Board on a case by case basis. Writing articles, books, or CPE programs for publication is a structured activity that involves a process of learning. CPE credits should be claimed only upon publication.

(e) CPE credits recommended by a CPE program sponsor of independent study must not exceed the time the participant devoted to complete the learning activities specified in the learning contract. The credits to be recommended by an independent study CPE program sponsor should be agreed upon in advance and should be equated to the effort expended to improve professional competence. The credits cannot exceed the time devoted to the learning activities and may be less than the actual time involved.

(f) CPE credits earned through nano-learning courses are limited by number of courses, with no more than twenty nano-learning courses being allowed each calendar year.

10:15-32-6. Standards for CPE Program Reporting [AMENDED]

(a) CPE program sponsors must provide program participants with documentation of their participation, which includes the following:

(1) CPE program sponsor name and contact information;

(2) Participant's name;
(3) Course title;
(4) Course field of study;
(5) Date offered or completed;
(6) Type of instructional/delivery method used;
(7) Amount of CPE credit recommended; and
(8) Verification by CPE program sponsor representative.

(b) CPE program sponsors should provide participants with documentation to support their claims of CPE credit. Acceptable evidence of completion includes:

(1) For group and independent study programs, a certificate or other verification supplied by the CPE program sponsor;
(2) For self-study programs, including nano-learning, a certificate supplied by the CPE program sponsor after satisfactory completion of an examination;
(3) For instruction credit, a certificate or other verification supplied by the CPE program sponsor;
(4) For a university or college course that is successfully completed for credit, a record or transcript of the grade the participant received;
(5) For university or college non-credit courses, a certificate of attendance issued by a representative of the university or college; and
(6) For published articles, books, or CPE programs,
(A) A copy of the publication (or in the case of a CPE program, course development documentation) that names the writer as author or contributor; and
(B) A statement from the writer in a format prescribed by the Board supporting the number of CPE hours claimed.

(c) CPE program sponsors must retain adequate documentation for five years to support their compliance with these standards and the reports that may be required of participants.

(1) Evidence of compliance with responsibilities set forth under these Standards which is to be retained by CPE program sponsors includes, but is not limited to:
(A) Records of participation;
(B) Dates and locations;
(C) Instructor names and credentials;
(D) Number of CPE credits earned by participants; and
(E) Results of program evaluations.
(2) Information to be retained by developers includes copies of program materials, evidence that the program materials were developed and reviewed by qualified parties, and a record of how CPE credits were determined.
(3) For CPE program sponsors offering self-study programs, appropriate pilot test records must be retained regarding the following:
(A) When the pilot test was conducted;
(B) The intended participant population;
(C) How the sample was determined;
(D) Names and profiles of sample participants; and
(E) A summary of participants' actual completion time.

SUBCHAPTER 33. PEER REVIEW

10:15-33-5. Effect of consecutive deficient reports [AMENDED]

~~(a) Peer reviews for a firm, including a succeeding firm which receives two (2) consecutive pass with deficiencies reports and/or one (1) fail report, may be required by the Board or its designee to have an accelerated peer review The year-end and due date of such peer review is to be determined by the Board giving consideration of the time required for the firm to implement remedial actions.~~
~~(b) If the accelerated review required by subsection (a) above results in a deficient report:~~
~~(1) The firm may complete any service requiring a peer review for which field work has already begun only if:~~
~~(A) Prior to issuance of any report, the engagement is reviewed and approved by a third party reviewer acceptable to the Board or its designee; and~~
~~(B) The engagement is completed within ninety (90) days of the acceptance of the peer review report, and letter of response (when applicable) by the sponsoring organization;~~
~~(2) The firm shall be referred to the Vice Chair of the Board for enforcement investigation.~~

~~(3) A firm may petition the Board for a waiver from the provisions of this rule.~~

A firm, including a succeeding firm, which receives two (2) consecutive pass with deficiencies reports and/or one (1) fail report, may be referred to enforcement for further action by the Board or its designee.

10:15-33-6. Reporting to the board [AMENDED]

(a) Any report or document required to be submitted under this subsection shall be made available to the Board by a secure website or other secure means unless the sponsoring organization does not have access to a secure website or other secure means. In such case the report may be directly submitted by the firm.

(b) Any report or document required to be submitted under this subsection shall be filed with the Board within thirty (30) days of receipt from the sponsoring organization. Such report shall contain:

(1) A copy of the report and the final letter of acceptance from the sponsoring organization, if such report is pass; or

(2) A copy of the report, letter of response, the signed agreement to the conditional letter of acceptance, and final letter of acceptance when corrective actions are complete if the report is pass with deficiencies or fail.

(3) A copy of the Public Company Accounting Oversight Board (PCAOB) report, if applicable.

(c) Any document submitted to the Board under this subsection is confidential pursuant to the Act.

10:15-33-7. Peer review oversight committee [AMENDED]

(a) The Board shall appoint a Peer Review Oversight Committee for the purpose of:

(1) Monitoring sponsoring organizations to provide reasonable assurance that peer reviews are being conducted and reported on in accordance with peer review minimum standards;

(2) Reviewing the policies and procedures of sponsoring organization applicants as to their conformity with the peer review minimum standards; and

(3) Reporting to the Board on the conclusions and recommendations reached as a result of performing functions in paragraphs (A) and (B) of this subsection.

(b) The Peer Review Oversight Committee shall consist of three (3) members nominated by the Chair and approved by the Board, none of whom is a current member of the Board. Subsequent committee members shall serve three (3) year terms. Compensation of Peer Review Oversight Committee members shall be set annually by the Board. Each member of the Peer Review Oversight Committee must be active in the practice of public accounting at a supervisory level or above in the accounting or auditing function while serving on the committee or any employee involved at a supervisory level or above in an audit function of a state or local government. The member,member's firm or consulting clients must be enrolled in an approved practice/monitoring program and have received a pass report on its most recently completed peer review.

(1) No more than one Peer Review Oversight Committee member may be from the same firm.

(2) A Peer Review Oversight Committee member may not concurrently serve as a member of the AICPA's or any state's CPA society ethics or peer review committee.

(3) A Peer Review Oversight Committee member may not participate in any discussion or have any vote with respect to a reviewed firm when the committee member lacks independence or has a conflict of interest. The Board may appoint alternate committee member(s) to serve in these situations.

(c) Information gleaned from meetings involving the Report Acceptance Body (RAB) concerning a specific firm or reviewer obtained by the Peer Review Oversight Committee during oversight activities shall be confidential, and the firm's or reviewer's identity shall not be reported to the Board. ~~Reports~~Official reports submitted to the Board under this subsection (e)(5)(C) will not contain information concerning specific registrants, firms or reviewers.

(d) As determined by the Board, the Peer Review Oversight Committee shall make periodic recommendations to the Board, but not less than annually, as to the continuing qualifications of each sponsoring organization as an approved sponsoring organization.

(e) The Peer Review Oversight Committee may:

(1) Establish and perform procedures for ensuring that reviews are performed and reported on in accordance with the AICPA Standards for Performing and Reporting on Peer Reviews or other standards as approved by the Board and the rules promulgated herein by the Board;

(2) Review remedial and correction actions prescribed that address the deficiencies in the reviewed firm's system of quality control policies and procedures;

(3) Monitor the prescribed remedial and corrective actions to determine compliance by the reviewed firm;

(4) Establish a report acceptance process, which facilitates the exchange of viewpoints among committee members and sponsoring organization; and

(5) Communicate to the Board on a recurring basis:

(A) Problems experienced by the enrolled registrants in their systems of quality control as noted in the peer reviews conducted by the sponsoring organization;
(B) Problems experienced in the implementation of the peer review program; and
(C) A summary of the historical results of the peer review program.

(f) Committee members shall become disqualified to serve on Peer Review Oversight Committee if any of the provisions that qualify the committee member no longer exist or by majority vote of the Board.

SUBCHAPTER 43. ATTEST ENGAGEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS

10:15-43-1. Registration [AMENDED]

Pursuant to Title 74 Oklahoma Statutes Section 212A(B), all registrants, prior to entering into contracts to perform an attest engagement of a governmental entity, must register, in a format prescribed by the Board which attests to the registrant's compliance with Government Auditing Standards except as provided by Title 11 Oklahoma Statutes 17-105 for municipalities.

10:15-43-4. Denial of registration [AMENDED]

(a) Any registrant whose registration has been denied shall be notified in writing. The written notice shall include the reason(s) for the denial.
(b) If a registration is denied, the registrant may file a written request with the Board for a review of the denial. The registrant shall have the burden of demonstrating to the Board that the qualifications to perform attest engagements in accordance with Government Auditing Standards, or other standards as allowed by law, have been met. Any evidence submitted by the registrant shall be in documentary form.

[OAR Docket #24-681; filed 7-3-24]

TITLE 25. OKLAHOMA DEPARTMENT OF AEROSPACE AND AERONAUTICS
CHAPTER 1. ~~COMMISSION~~DEPARTMENT OPERATIONS [AMENDED]

[OAR Docket #24-662]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
25:1-1-1. Purpose [AMENDED]
25:1-1-3. Definitions [AMENDED]
25:1-1-4. Organization and responsibilities of Commission [AMENDED]
25:1-1-5. Director [AMENDED]
25:1-1-6. Prohibited activities for Commission employees [AMENDED]
25:1-1-7. Printed material; fees [AMENDED]
25:1-1-8. Windsock program [AMENDED]
AUTHORITY:
3 O.S. § 85; Oklahoma Department of Aerospace and Aeronautics
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 21, 2023
COMMENT PERIOD:
January 16, 2024 through February 16, 2024
PUBLIC HEARING:
February 20, 2024
ADOPTION:
March 6, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 6, 2024
LEGISLATIVE APPROVAL:

N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The permanent rules will modify the agency name per the requirements set forth in SB 782 that became effective November 1, 2023. Changes include updating the chapter name, defining department, updating the definition of commission and non-primary entitlement funds, and clarifying the operational difference of commission and department throughout the chapter.
CONTACT PERSON:
Michelle Bouziden, Senior Project & Grants Manager, Oklahoma Department of Aerospace & Aeronautics, 110 N. Robinson, Suite 200, Oklahoma City, OK 73102, michelle.bouziden@aerospace.ok.gov, (405) 604-6912.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

25:1-1-1. Purpose [AMENDED]

The purpose of this chapter is to set forth rules, regulations, policies and procedures to govern the proper and orderly performance by the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ of the aeronautical functions, duties and responsibilities required by law, including, but not limited to, effectively assisting in the development of a statewide system of airports, cooperating with and assisting the municipalities of the state of Oklahoma and others engaged in aeronautics, encouraging and developing aeronautics in all its phases, promoting safety in aeronautics, and cooperating with federal authorities in the development of a national system of civil aviation.

25:1-1-3. Definitions [AMENDED]

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

"Aeronautical hazard" means any structure, object of natural growth, or use of land, which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or that is otherwise hazardous to the operation and navigation of aircraft.

"Aeronautics" means the science, art and practice of flight, including, but not limited to, transportation by aircraft and matters relating to air commerce; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation

facilities; and instruction in flying or ground subjects pertaining thereto.

"Aerospace" means the industry that is associated with the design, manufacture, operation, testing, maintenance, and repair of aircraft, spacecraft, and other aerial vehicles that operate in and out of the earth's atmosphere as well as their associated components.

"Air navigation facility" means any facility used in, available for use in, or designed for use in, aid of air navigation, including landing areas, any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

"Aircraft" means any contrivance now known, or hereafter invented, used, or designed for navigation of or flight in the air or airspace.

"Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way, and any individual who is directly in charge

"Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings, clear zones, or other airport facilities or right-of-ways, together with all airport buildings and facilities located thereon.

"Airspace" means the portion of the atmosphere overlying a designated geographical area considered as subject to territorial jurisdiction or international
law in respect to its use by aircraft, guided missiles, and rockets.

"Commission" means the seven members of the Oklahoma Aerospace and Aeronautics Commission as appointed by the governor ~~created in Title 3 Section 84 of the Oklahoma Statues~~.

"Department" means the Oklahoma Department of Aerospace and Aeronautics.

"Director" means the Director of the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~.

"Designated Emergency Management Use Landing Site" means any area of land which has been designated for the landing and take-off of aircraft for emergency management use, including, but not limited to law enforcement, search and rescue, and medical.

"Municipality" means any incorporated city, village, or town of this state and any county or political subdivision or district in this state which is, or may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports, airstrips, and aeronautical navigation facilities.

"Operation of aircraft" or **"operate aircraft"** means the use, navigation, or piloting of aircraft in the airspace over this state or upon any airport within this state of the inspection, maintenance, overhauling, or repair, of aircraft, aircraft engines, propellers, and appliances.

"Person" means any individual, firm, partnership, corporation, company, association, joint stock association or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

"Resources" means services, facilities, funds, equipment, property, personnel, and such other activities as are customarily included within the term.

"State" means the State of Oklahoma.

25:1-1-4. Organization and responsibilities of Commission [AMENDED]

(a) At the last scheduled meeting at the end of each calendar year, the Commission shall organize itself by electing a Chairman, Vice-Chairman, and Secretary. The Chairman shall be the presiding officer at all official meetings and shall execute all documents requiring the Commission's approval. The Vice-Chairman shall act in the capacity of the Chairman, in the absence of the Chairman. The Secretary shall be responsible for written recording of the Commission's actions and shall attest to the signature of the Chairman as required. The Secretary shall act in the capacity of Chairman or Vice-Chairman during their absence providing there is a quorum.

(b) The Commission shall meet as prescribed by law, and all meetings of the Commission shall be in conformance with the "Oklahoma Open Meeting Act", Title 25, Oklahoma Statutes 1981, Section 301 et seq.

(c) The Commission shall prescribe the basic rules, regulations, policies, and procedures by which the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ operates.

(d) The ~~Commission~~Department shall coordinate, develop, and maintain a comprehensive airport systems plan for the State of Oklahoma that is approved by the Commission, develop measurable goals and objectives designed to carry out such a plan, and cooperate with local governments in the planning and development of airport related activities, when consistent with the goals and objectives of the State system plan for airports and the laws of the State of Oklahoma.

(e) The Commission shall ~~formulate and~~ adopt a program of airport construction, improvements, and maintenance throughout the entire state. Its purpose shall be to invest available funding for ~~monitor~~ the construction, development, and maintenance of the statewide system of airports with emphasis on current and future needs while considering the impact of population centers, traffic volume requirements, traffic data, and industrial development areas on these needs.
(f) The Commission shall appoint, by a majority vote of the entire Commission, ~~a~~ an Executive ~~State Aeronautics~~ Director to be the principal officer of the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ in accordance with Title 3, Oklahoma Statutes ~~1985 Supp.,~~ Section 84.B.(1).

25:1-1-5. Director [AMENDED]

The Director is hereby granted all the powers and authority necessary for the orderly operation of the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~, not in conflict herewith or prohibited by law, including, but not limited to the following:

(1) **General duties.**

(A) To approve claims for all lawful expenses of the Commission.
(B) To act as the claims and request officer for the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~.
(C) To appoint an Assistant Director and to delegate to him/her the appropriate authority and responsibility.
(D) To keep the Commission informed on operations and official actions.
(E) To appoint and employ, supervise, and discharge such professional, clerical, and skilled help, labor, and other employees as may be deemed necessary for the proper and lawful discharge of the duties of the ~~Commission~~Department.
(F) To establish and maintain training and educational programs.
(G) To keep files and to record therein such matters as he/she may deem necessary or advisable, or which the Commission may direct.
(H) To be the keeper of the official seal of the ~~Commission~~Department.
(I) To make budgetary transfers within the ~~Commission~~Department, within the limits of statutory control and Commission authorization.
(J) To cooperate with governing bodies of cities and towns, boards of the various counties, and other entities, on the basis prescribed by state and federal laws, to the end that joint efforts will be coordinated to attain a maximum of airport development and service; and to execute any appropriate contracts and agreements necessary toward the accomplishment of the ~~Commission's~~Department's approved ~~program~~ programs.
(K) Contracts:
(i) To execute all contracts and agreements on behalf of the ~~Commission~~Department as provided by law, and in accordance with ~~Commission~~Department policy.
(ii) To approve necessary contract extensions or modifications made necessary by unexpected developments as allowed by law.
(L) Federal Aid:
(i) To act for and represent the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ in all official matters involving the Federal Aviation Administration or any other agency of the United States government, for the purpose of executing Federal Grant Programs.
(ii) To make or withhold commitments, execute contracts and agreements, and to bind the ~~Commission~~Department by any other action which the ~~Commission~~Department may lawfully do.

(2) **Administration.** To develop forms and to issue more detailed instructions, not inconsistent with the rules of this Chapter, or applicable state and federal laws, by appropriate orders and memoranda for the general guidance and administration of the ~~Commission~~ Department.

25:1-1-6. Prohibited activities for Commission employees [AMENDED]

~~Commission~~ Department employees shall not engage in any outside employment or enterprise which would constitute a conflict of interest, as defined by law, or which would violate the State Employees' Code of Ethics.

25:1-1-7. Printed material; fees [AMENDED]

Official ~~Commission~~ Department publications and reproductions of printed matter will be furnished to other states, the federal government, cities, towns, counties, and state officials without cost. The same matter will be offered to the general public in accordance with the Director's approved schedule of fees, as determined by actual cost. The official Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ aeronautical chart shall be distributed free in reasonable amounts upon request.

25:1-1-8. Windsock program [AMENDED]

In order to ~~insure~~ensure that a functional wind indicator is present and visible at each airport, open to the public, within the State of Oklahoma, replacement wind socks shall be made available, upon request and proof of need, free of cost to the airport. Airports which are not open to the public shall be provided a wind sock upon request for a fee equal to the cost of the item to the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~. To ~~insure~~ensure that a functional wind indicator is present and visible at designated emergency management use landing sites, within the State of Oklahoma, wind socks shall be made available, upon request and proof of need, free of cost to the emergency management use landing site.

[OAR Docket #24-662; filed 6-26-24]

TITLE 25. OKLAHOMA DEPARTMENT OF AEROSPACE AND AERONAUTICS
CHAPTER 15. ~~OAC~~ AIRPORT CONSTRUCTION PROGRAM [AMENDED]

[OAR Docket #24-665]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
25:15-1-1. Purpose [AMENDED]
25:15-1-2. Definitions [AMENDED]
25:15-1-3. Planning [AMENDED]
25:15-1-4. Programming Implementation Airport Grant and Loan Program Requirements and Procedures [AMENDED]
25:15-1-5. Airport compliance [NEW]
AUTHORITY:
3 O.S. Section 85; Oklahoma Department of Aerospace and Aeronautics
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 22, 2023
COMMENT PERIOD:
January 16, 2024 through February 16, 2024
PUBLIC HEARING:
February 20, 2024
ADOPTION:
March 6, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 6, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A

GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The permanent rules will modify the agency name per the requirements set forth in SB 782 that became effective November 1, 2023. Changes include updating the chapter name, defining department, updating the definition of commission and non-primary entitlement funds, and clarifying the operational difference of commission and department throughout the chapter. Additional changes include updating airport construction program projects, funding information, clarifying fuel system project qualifications, updating airport sponsor assurances, and adding airport compliance information.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

25:15-1-1. Purpose [AMENDED]
The purpose of this chapter is to set forth the requirement for participation in the airport grant program administered by the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~, and to establish the procedures to be followed by the ~~Commission~~ Department in the administration and enforcement of its duties under Title 3, Oklahoma Statues, Section 81-93 and Title 68, Oklahoma Statues, Section 6003.1.

25:15-1-2. Definitions [AMENDED]
The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:
"Administrative official" means an official of the airport sponsor who is authorized to legally bind the airport sponsor.
"Airport Construction Program" means a list of airport construction projects approved by the Commission for implementation within a five-year programming horizon showing a description of the project, the cost of each phase of the project, when the project is expected to occur, and the sources of funding.
"Airport Development Worksheet" means a listing of the capital infrastructure projects needed at an airport over a twenty-year planning horizon together with the estimated cost, construction type, ~~objective code,~~ and airport component for each project. Projects identified for a particular airport must be consistent with the service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan. An airport development worksheet is developed and maintained for each system plan airport that is not part of the National Plan of Integrated Airport Systems (NPIAS) cooperatively by the airport sponsor and the ~~Commission~~Department staff.
"Airport layout plan/drawing" means the basic plan for the layout of an airport that shows, at a minimum, the present boundaries of the airport, the areas that the airport sponsor owns or controls for airport purposes, and any proposed areas that will be acquired by the airport sponsor in the future. It will include the location and nature of existing and proposed airport facilities such as runways, taxiways, aprons, terminal buildings, hangars, roads, and other vital airport infrastructure items. Also, it will provide the location of existing and proposed uses of property under control by the airport sponsor. The full airport layout plan-set is a combination of many pages of documents, including items such as instrument approach path details, terminal area maps, property maps, and the page that is identified as the airport layout

drawing. Not every airport will have a full plan-set and may only have an airport layout drawing which will detail most of the above information on a single page drawing.

"Airport Sponsor" or **"Municipality"** is used interchangeably throughout this chapter. Either term means any incorporated city, village, or town of this state, any public institution of higher education, and any county or political subdivision or district of this state, or any public trust thereof, which is, or may be, authorized by law to acquire, establish, construct, maintain, improve, and operate airports, airstrips, and aeronautical facilities. To be eligible for the state grant program, the airport sponsor must be one of the governmental entities referenced in the preceding sentence and included in the Oklahoma Airport System Plan that has been adopted by the Commission. Nothing herein precludes two or more of these entities from acting jointly as an airport sponsor. In the event a public trust is the airport sponsor, the beneficiary of that public trust must also be a record owner of the airport property.

"Airport Sponsor Matching Share" means any funds provided by the airport, municipality or public trust, or any other source of funding that is not FAA.

"Commission" means the seven members of the Oklahoma Aerospace and Aeronautics Commission as appointed by the governor~~, the state agency responsible for administering airport grant programs for the State of Oklahoma and the Federal Aviation Administration~~.

"Department" means the Oklahoma Department of Aerospace and Aeronautics, the state agency responsible for administering airport grant programs for the State of Oklahoma and the Federal Aviation Administration.

"Emergency" means a condition that could not have been foreseen and which affects the safety of the airport sufficiently that the airport or runway may need to be closed if the situation is not remedied.

"FAA" means the Federal Aviation Administration, a unit of the U.S. Department of Transportation.

"Letter of Interest" means a letter expressing the desire of an airport sponsor to have one or more projects included in the Airport Construction Program.

"Non- Primary Entitlement (NPE) funds" are FAA Airport Improvement Program (AIP) funds set aside for general aviation airports listed in the National Plan of Integrated Airport Systems. ~~These airports can each receive up to $150,000 per year based on the FAA assessment of needs over a 5 year period.~~

"Notification Letter" means correspondence prepared by the Department ~~Commission~~ staff informing an airport sponsor that one or more of their projects have advanced to the current year of the Airport Construction Program. The letter sets forth the terms the Department ~~Commission~~ imposes on airport sponsors participating in the state grant program, describes the project, authorizes the airport sponsor to begin engineering work for the project and directs the sponsor to prepare a grant application once project bids have been received.

"Oklahoma Airport System Plan" means the plan, adopted by the Commission, which identifies the airports included in the State's airport system and identifies the service level, functional classification, design standard, and airport reference code for each system airport.

"Project Sketch" shown in color the area and location of proposed construction or rehabilitation work for the accompanying construction grant application.

25:15-1-3. Planning [AMENDED]

(a) **Planning and Programming Process.**

(1) The Department ~~Commission~~ staff shall, in consultation with airport sponsors, prepare and maintain the Oklahoma Airport System Plan. The Commission shall adopt and approve changes to the plan.

(2) The Department ~~Commission~~ staff shall assist publicly owned, publicly used airports in identifying airport needs and deficiencies. Airport sponsors eligible to participate in grant or loan programs are sponsors of publicly owned, public use airports included in the Oklahoma Airport System Plan. The Department ~~Commission~~ staff shall, in consultation with each airport sponsor, prepare and maintain an airport development worksheet for each airport included in the Oklahoma Airport System Plan. The airport development worksheet shall be reviewed and updated at least once every three years. The airport development worksheet shall identify the capital projects needed at the airport over a 20 year planning horizon, together with the estimated cost, construction type, objective code, and airport component for each project. The identified projects shall be consistent with the service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan.

(3) The Department ~~Commission~~ staff shall, in consultation with airport sponsors, prepare and update annually the Airport Construction Program. The Commission shall approve the Airport Construction Program.

(b) **Airport Construction Program Content.**

(1) The Airport Construction Program shall contain a list of proposed State and FAA funded projects that can be implemented with forecast revenues within the five year programming horizon.

(2) Projects included for an airport in the Airport Construction Program shall be consistent with service level, functional classification, design standard, and airport reference code identified for the airport in the Oklahoma Airport System Plan.
(3) The Airport Construction Program shall show the proposed sources of funding for each project.
(4) The Airport Construction Program shall show the proposed implementation schedule for each project.
(5) The Airport Construction Program shall include other priorities, policies, and procedures as adopted by the Commission.

(c) **Airport Construction Program Projects.**

(1) To be included in the Airport Construction Program a project must be eligible to receive airport grant or loan funding from ~~OAC~~ the Department. To be eligible a project must be conducted on active public-use areas of an airport or to support those public-use areas of an airport. Types of projects considered eligible are listed below:

(A) Maintenance: this type of work is limited to pavement maintenance of runways, taxiways, and aprons and can include routine cleaning, filling, or sealing of cracks/joints, maintenance of pavement drainage systems, patching pavement, and remarking of the above mentioned pavement areas. Items not considered maintenance are applying herbicide to prevent grass encroachment, mowing of airport grass, FOD sweeping, replacing light bulbs, replacing light fixtures due to damage from a manmade source, re-topping of trees that had been previously topped in ~~an OAC~~a Department project, and other similar type activities.

(B) Rehabilitation: this type of work is a more comprehensive restoration of an item to its original functionality. Items such as pavement sealcoats, overlays, reclamation, replacement of an entire set of lighting fixtures would be considered rehabilitation.

(C) Reconstruction: this type of work is a complete restoration of an item to its original functionality once it has reached the end of its useful life. This results in a virtually new piece of pavement, electrical system, or building.

(D) New Construction/Installation: this type of work would construct new pavement such as a runway widening or extension, hangar taxiway area, or apron expansion, or construct new structures such a terminal building or hangar, or construct new drainage structures to support the removal of water from the airport. This work item would also include the installation of new navigational aids that weren't previously at an airport such a precision approach path indicator, runway edge lighting, omnidirectional approach light system, weather observation system, or similar item.

(E) Planning/Design: this type of work includes the engineer design and associated support work with any of the eligible project types. This could also include planning projects such as master plans, airport layout plans, specialty planning studies, and obstruction/approach surveys.

(F) Off-airport: this type of work is typically for the support of on-airport operations. This work item could include items such as obstruction removal, land acquisition, drainage improvements, relocation of roads and utilities, installation of navigational aids, or similar projects.

(2) The following are three basic tests that must be met to determine if a project is justified for inclusion in the Airport Construction Program:

(A) The project advances ~~OAC~~ Department policy laid out in 3 O.S. § 85 and the adopted Oklahoma Airport System Plan. The basic goals and objectives in these policies include airport safety, security, economic enhancement, and capacity, meeting FAA or ~~OAC~~ Department standards, preserving and improving airport infrastructure that is for the use and benefit of the public, airport planning, and other similar projects.

(B) ~~OAC~~ The Department must determine if there is an actual need for the project at the airport within the five-year horizon.

(C) The project scope is appropriate. ~~OAC~~The Department must determine that all the elements of the project are necessary to obtain the project scope's overall goal. Any elements that do not meet this criteria must stand on their own separate merit and justification.

(3) For hangar construction projects, special selection criteria and requirements will be implemented to include the following:

(A) Preference will be given to hangar projects which will support new businesses, expansion/enhancement of existing on-airport businesses, and new aircraft being brought to the state. Preference will also be given to hangar projects which help an airport sponsor increase their based aircraft for potential inclusion into the NPIAS or to attain classified status within the NPIAS.

(B) An airport sponsor must show a valid hangar waiting list for those potential occupants of the hangars to be constructed.

(C) Airport sponsors will need to provide a plan to charge fair market aeronautical rates for hangars that are constructed as a part of this program.

(4) For a project to be considered for inclusion in the Airport Construction Program, the airport sponsor must submit a letter of interest to the ~~Commission~~Department detailing the basic scope and estimated cost of the project that they want to have included in the Airport Construction Program.

(d) **Airport Construction Program Development.**

(1) The Airport Construction Program lists projects for which expenditures are expected to begin within the five year programming horizon.

(2) On a two-year cycle, the ~~Commission~~Department staff shall update the NPIAS needs database and the ADWS database (for Non-NPIAS airports). To update the ~~Commission's~~Department's database, sponsors will use FAA's Overall Development Objective (ODO) data sheet or similar document for each requested project.

(3) The ~~Commission~~Department staff shall evaluate projects in the NPIAS and ADWS databases and recommend projects for inclusion in the Airport Construction Program based on:

(A) Airport system development priorities, policies, and procedures adopted by the Commission and/or the FAA.

(B) Multi-year on-going projects that are currently identified in the approved Airport Construction Program will be given higher priority during the development of the Airport Construction Program.

(C) The airport's pavement condition index, pavement life-cycle consideration as developed by the pavement management program.

(D) The National Priority Rating System developed by FAA and included in FAA's Order 5090.5 titled "Formulation of the National Plan of Integrated Airport Systems (NPIAS) and the Airports Capital Improvement Plan (ACIP)".

(E) The amount of aviation activity, the types of airplanes served, the numbers of based airplanes at the airport, and the population included in the airport's service area.

(F) Other factors as may be relevant (for example, the services provided at the airport, the sponsor's demonstrated ability to maintain and operate the airport, the sponsor's ability to address safety inspection deficiencies, etc.)

(G) An emergency project request, with verifiable justification, may be submitted to the ~~Commission~~Department for inclusion in the Airport Construction Program at any time.

(4) The five year programming horizon of the Airport Construction Program shall be broken down into three general time periods (Appendix A): near-term program, transition year, and the extended program.

(A) Near-term program: This shall be the current year plus years two and three. Projects in this time period are considered to be of low flexibility.

(B) Transition year: This shall be year four. Projects in this time period are considered to be of moderate flexibility.

(C) Extended program: This shall be year five. Projects in this time period are considered to be flexible.

25:15-1-4. Programming Implementation Airport Grant and Loan Program Requirements and Procedures [AMENDED]

(a) **Contingency.** Implementation of an airport grant program or loan program is contingent upon funding being available to the ~~Commission~~Department for this purpose.

(b) **Notification to Proceed.**

(1) As funding becomes available, the ~~Commission~~Department staff shall send a notification letter to each airport sponsor that has a capital project included in the approved Airport Construction Program as described in 25:15-1-3.

(2) The notification letter shall:

(A) Advise the airport sponsor of the proposed cost sharing for the project and identify project development items eligible for funding.

(B) Authorize or direct the airport sponsor to:

(i) confirm in writing within 30 days the airport sponsor's intention to proceed with the project as programmed;

(ii) select an engineering consultant and provide a copy of the contract entered into with the consultant;

(iii) prepare project plans and specifications and to coordinate the project design with the ~~Commission~~Department staff;

(iv) prepare to meet the federal and state administrative requirements depending upon the proposed funding sources;
(v) provide updated project costs after the final design is completed;
(vi) proceed to bid when directed by the ~~Commission~~Department's staff; and
(vii) submit a grant application for the ~~Commission's~~Department's consideration and approval.

(c) **Grant Application or Loan Application;General Information.**

(1) The airport sponsor shall submit a complete grant or loan application for a capital project for:
(A) Reimbursement of the cost of planning and engineering; and/or
(B) Reimbursement for the cost of construction based on the bids received by the airport sponsor.

(2) The airport sponsor's administrative official must sign the grant or loan application form(s). If the administration and/or operation of the airport is performed by a Trust, the Chairman of the Trust must also sign the grant or loan application.

(3) The ~~Commission~~Department shall consider all grant or loan applications in accordance with 25:15-1-3(c).

(4) Reimbursement for the cost of engineering is contingent upon submission of the final set of plans and specifications to the ~~Commission~~Department staff.

(d) **Grant or Loan Application**; **Funding Information.**

(1) Each airport sponsor must state in its application that it has on hand funds to pay all estimated costs of the proposed project that are not borne by the ~~Commission~~Department or any other state or federal agency. As part of this requirement, each airport sponsor is required to provide written verification in the grant or loan application (designated as Exhibit E) to the ~~Commission~~Department that the airports sponsor's share of the project has been ~~deposited~~ reserved in an account that will be used for defraying the costs of the project.

(2) If any of the funds for the project are to be furnished by another state or federal agency, the airport sponsor must provide evidence that the funds are available with the grant or loan application.

(e) **Information Regarding State Level of Participation and Required Matches.**

(1) For state grants, the maximum level of participation for the ~~Commission~~ Department shall not exceed 95 percent. The airport sponsor is required to provide a minimum of 5 percent of the project funding for the airport sponsor matching share.

(2) For FAA grants for projects identified in the ~~Commission's~~ Department's Airport Construction Program, the ~~Commission~~ Department may provide half of the match that is required from the airport sponsor.

(3) For FAA grants for projects identified in the ~~Commission's~~ Department's Airport Construction Program, the ~~Commission~~ Department may provide supplemental state grant funding for project items. The maximum level of participation for the ~~Commission~~ Department in such supplemental funding shall not exceed 95 percent. The airport sponsor is required to provide a minimum of 5 percent of the supplemental project funding for the airport sponsor matching share.

(4) For non-primary entitlement (NPE) grants or special federal earmarks not identified in the ~~Commission's~~ Department's Airport Construction Program, the ~~Commission~~ Department will not provide half the match that is required from the airport sponsor. If NPE grant funds are transferred from other airport sponsors to an airport sponsor for a project identified in the ~~Commission's~~ Department's Airport Construction Program, the ~~Commission~~ Department may assist with half of any required match from the receiving airport sponsor so long as it will save the ~~Commission~~ Department state funds.

(5) For terminal building projects, the ~~Commission's~~ Department's maximum cost-share level shall be 50 percent and shall not exceed $1,000,000. The airport sponsor is required to provide a dollar-for-dollar airport sponsor matching share for every dollar the ~~Commission~~ Department provides. Remaining share to complete project could come from any available source.

(6) For hangar construction projects, the ~~Commission~~ Department may provide funding via grant or loan.
(A) For state grants the ~~Commission's~~ Department's maximum cost-share level of participation shall not exceed 40 percent. The airport sponsor is required to provide a minimum 5 percent for the airport sponsor matching share. Remaining share to complete project could come from any available source.
(B) For state loans the maximum cost-share level of participation shall ~~be~~ not exceed 70 percent. The airport sponsor is required to provide a minimum 5 percent for the airport sponsor matching share. Remaining share to complete project could come from any available source.

(7) For fuel system construction projects, the ~~Commission's~~ Department's maximum cost-share level shall be 50 percent and shall not exceed $300,000 per system type (fixed or mobile) per fuel type (e.g Jet-A, AvGas). The airport sponsor is required to provide a minimum of 5 percent for the airport sponsor matching share. Remaining share to complete project could come from any available source.

(8) For funding directed to the ~~Commission~~ Department as a part of the Preserving Rural Economic Prosperity (PREP) program or other similar state program created by the legislature for specifically identified site locations and infrastructure projects of a non-competitive nature within the Oklahoma Airport System the ~~Commission~~ Department may provide funds at a 100 percent level.

(f) **Grant Application;Project Information.** The airport sponsor will provide the following information:

(1) The airport sponsor shall submit an Airport Layout Drawing or project sketch (designated as Exhibit A) indicating the location of the proposed construction work with all grant applications.

(2) The airport sponsor shall submit final project plans and specifications with the grant application (designated as Exhibit B).

(3) The airport sponsor shall submit a project narrative with the grant application describing the items of airport development for which the airport sponsor is requesting assistance (designated as Exhibit B-1).

(4) The airport sponsor shall submit a line-item project cost list with the grant application that provides a detailed cost breakdown of the project (designated as Exhibit B-2). This list will be based on the bid awarded by the airport sponsor. The amounts on this list are considered not to be exceeded amounts without prior approval. Any expenditure over these line-item amounts will not be considered for reimbursement unless approval has been received as described in 25:15-1-4(h).

(5) The airport sponsor shall submit the engineering contract for the project scope and the project engineering fees with the grant application (designated as Exhibit B-3).

(6) The Sponsor will submit a certification stating compliance with FAA standards unless an approved Modification to Standards for state standards has been received from the appropriate funding agency.

(7) The airport sponsor shall submit the contract for on-site construction observations (designated Exhibit B-4).

(8) The airport sponsor shall provide a signed statement in the grant application that the airport sponsor is not currently in default to any state agency for any obligation related to the development, operation or maintenance of the airport (designated as Exhibit C).

(9) The airport sponsor shall provide a signed statement with the grant application that the airport sponsor will not award any contract to any contractor who is currently suspended or disbarred by any federal agency, the Oklahoma Department of Central Services or the Oklahoma Department of Transportation for the project contemplated under the grant application (designated as Exhibit C-1).

(10) The airport sponsor shall provide an affidavit with the grant application that states the person signing is the administrative official for the sponsor, that the sponsor has not provided any compensation, donation or gift to an officer or employee of the state in procuring the grant, that any employee of the state compensated by the airport sponsor involved in the development of the grant will not provide any services in the project, and that this project will not result in any duplication of previous grant requests or awards (designated as Exhibit C-2).

(g) **HangarLoan Application;Project Information.** The airport sponsor will provide the following information:

(1) The airport sponsor shall submit an Airport Layout Drawing or project sketch (designated as Exhibit A) indicating the location of the proposed construction work with all loan applications.

(2) The airport sponsor shall submit final project plans and specifications with the loan application (designated as Exhibit B).

(3) The airport sponsor shall submit a project narrative with the loan application describing the items of airport development for which the airport sponsor is requesting assistance (designated as Exhibit B-1).

(4) The airport sponsor shall submit a line-item project cost list with the loan application that provides a detailed cost breakdown of the project (designated as Exhibit B-2). This list will be based on the bid awarded by the airport sponsor. The amounts on this list are considered not to be exceeded amounts without prior approval. Any expenditure over these line-item amounts will not be considered for reimbursement unless approval has been received as described in 25:15-1-4(h).

(5) The airport sponsor shall submit the engineering contract for the project scope and the project engineering fees with the loan application (designated as Exhibit B-3).

(6) The Sponsor will submit a certification stating compliance with FAA standards unless an approved Modification to Standards for state standards has been received from the appropriate funding agency.

(7) The airport sponsor shall submit the contract for on-site construction observations (designated Exhibit B-4).

(8) The airport sponsor shall provide a signed statement in the loan application that the airport sponsor is not currently in default to any state agency for any obligation related to the development, operation or maintenance of the airport (designated as Exhibit C).

(9) The airport sponsor shall provide a signed statement with the loan application that the airport sponsor will not award any contract to any contractor who is currently suspended or disbarred by any federal agency, the Oklahoma Department of Central Services or the Oklahoma Department of Transportation for the project contemplated under the loan application (designated as Exhibit C-1).

(10) The airport sponsor shall provide an affidavit with the loan application that states the person signing is the administrative official for the sponsor, that the sponsor has not provided any compensation, donation or gift to an officer or employee of the state in procuring the loan, that any employee of the state compensated by the airport sponsor involved in the development of the loan will not provide any services in the project, and that this project will not result in any duplication of previous grant or loan requests or awards (designated as Exhibit C-2).

(11) The airport sponsor shall provide a signed Loan Agreement with the loan application that confirms the airport sponsor agrees to the terms established in the Loan Agreement.

(A) The interest rate will be determined by the ~~Commission~~ Department at the time a loan is issued but will be more competitive than what is available in the traditional loan market and allow for the ~~Commission~~ Department to recover costs associated with administering the loan.

(B) The payback period for a hangar loan will be a year term with annual payments.

(C) The first payment will be due no later than the last day of the month beginning two months after completion and final acceptance of the project and continuing each subsequent year by the last day of that same month for the entire loan term.

(h) **Change Orders**. As described in 25:15-1-4(f) and 25:15-1-4(g) the B-2 form lists line-item project costs that cannot be exceeded. During the course of the construction of a project, change orders and/or supplemental agreements may be necessary to increase or decrease bid or line-item amounts and quantities due to unknown or unforeseen circumstances. A change order and/or supplemental agreement shall be sent to the ~~Commission~~ Department along with a request to amend the approved grant's B-2 line-item or bid item.

(1) For change orders and/or supplemental agreements that will not increase the ~~Commission's~~ Department's overall share for the project the Director may approve such an amendment to the grant application. Change orders and/or supplemental agreements approved by the Director shall be presented to the Commission at its next regular or special business meeting stating the reasons for the change order and/or supplemental agreement with such information as the Commission may require.

(2) For change orders and/or supplemental agreements involving a total increase to the ~~Commission's~~ Department's overall share for the project not to exceed Ten Thousand Dollars ($10,000) the Director may approve such an amendment to the grant application. Such change orders and/or supplemental agreements approved by the Director shall be presented to the Commission at its next regular or special business meeting stating the reasons for the change order and/or supplemental agreement with such information as the Commission may require.

(3) Change orders and/or supplemental agreements involving a total increase to the ~~Commission's~~ Department's overall share for the project in excess of Ten Thousand Dollars ($10,000) must be presented to and approved by the Commission before such an amendment can be made to the grant application.

(i) **Grant or Loan Application; Height Hazard Zoning and Land Use**. Each airport sponsor shall indicate within the application that it has taken action to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and take-off of aircraft, and assuring the protection or control of the aerial approaches to the airport (designated as Exhibit D). The adoption and enacting of these zoning regulations is outlined in Title 3, Section 103 through 116, of the Oklahoma State Statutes.

(j) **Grant or Loan Application; Assurances.** The airport sponsor, upon signing the grant or loan application, agrees to the following assurances:

(1) Upon the approval of the grant or loan by the Commission, the capital project will be completed within a maximum of two years unless otherwise explicitly authorized by the Commission.

(2) The airport sponsor agrees to the following conditions regarding the users of the airport:

(A) Neither the airport sponsor nor the occupant of any of the airport facilities shall discriminate against any person or a class of persons in the use of any facility provided to the public on airport property.

(B) The airport sponsor shall operate the airport in such a manner that the airport is open to all types and classes of users and establish such non-discriminatory conditions required for the safe and efficient operation of the airport.

(C) Any agreement, contract, lease or other arrangement that the airport sponsor enters into shall include provisions that such services meet the demands of all users of the airport, that services shall be provided on a non-discriminatory basis, that charges for goods and services shall be fair and reasonable, that services allow any user of the airport to perform any and all services to their own aircraft, and that essential facilities will be operated in a manner that these facilities shall be available to all users of the airport. In addition, if the airport sponsor provides any or all of these services, the airport sponsor agrees to the same provisions.

(3) The airport sponsor certifies that it has the legal authority to carry out all provisions of the grant or loan application in conformity with State and Federal Statutes, Acts, and Regulations.

(4) The airport sponsor shall reserve sufficient powers and authority when entering into any transaction or arrangement to perform any of the covenants expressed in the grant or loan application.

(5) The airport sponsor shall provide the following minimum essential facilities: a landing area and an aircraft parking area.

(6) The airport sponsor shall agree to properly maintain the airport under the following conditions:

(A) The airport sponsor will operate and maintain the airport and all facilities to meet the needs of all users of the airport.

(B) The airport sponsor shall not permit the airport to be used for an activity that would impede or obstruct aeronautical activity.

(C) The airport sponsor shall appropriate the funds required to properly maintain the airport to prevent deterioration of the facilities. Failure to have a documented pavement maintenance program shall be cause for the ~~Commission~~ Department to disqualify the airport sponsor for additional funds. In addition, failure to have a documented pavement maintenance program shall be considered a breach of these assurances.

(7) The airport sponsor shall maintain an updated Airport Layout Plan that has been prepared in accordance with the FAA's regulations and shall not make any alterations to the airport other than those outlined in the approved Airport Layout Plan, or approved by the FAA or the ~~Commission~~ Department in writing.

(8) The ~~Commission~~ Department shall prepare a financial report of income and expenditures of all project funds. All project records shall be maintained by the airport sponsor for not less than three (3) years from the final acceptance of the project by the ~~Commission~~ Department, and the airport sponsor shall provide access to these records upon request of the ~~Commission~~ Department or the FAA. This provision shall in no way affect any requirement imposed upon the airport sponsor by the Oklahoma Open Records Act or any other state or federal law. These records shall include such documentary evidence as invoices, cost estimates, payrolls, vouchers, cancelled checks or warrants, and receipts for cash payments that support each item of project costs. The final 10% of state grant or loan funds will not be released until a satisfactory financial report has been completed and accepted by the ~~Commission~~ Department staff.

(9) The ~~Commission~~ Department shall not pay or be obligated to pay for any work on the project that has been incurred prior to the grant or loan application being submitted to and awarded by the ~~Commission~~ Department except for planning and/or engineering costs incurred pursuant to submitting a completed grant or loan application. In addition, any funds approved by the Commission shall only be used for project costs identified in the grant or loan application unless approval has been obtained as described in 25:15-1-4(g).

(10) The airport sponsor understands that fuel systems funded by the ~~Commission~~ Department must be operated by the public airport sponsor and not a third party entity or contractor.

(11) The airport sponsor certifies that it will take the necessary and appropriate action, to the furthest extent possible, including the potential acquisition of property, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including the landing and takeoff of aircraft. In addition, an airport sponsor shall take the necessary and appropriate action to assure that such terminal airspace as is required to protect instrument and visual operation to the airport will be adequately cleared and protected by removing, lowering, marking, lighting, or otherwise mitigating existing airport hazards and by preventing the establishment or creation of new airport hazards.

(k) **Grant or Loan Agreement; Terms and Conditions.** Upon approval by the Commission, the completed grant or loan application shall constitute an agreement between the ~~Commission~~ Department and the airport sponsor. Both the ~~Commission~~ Department and the airport sponsor are bound to all the requirements of the grant or loan agreement. In addition, all grants or loans of the ~~Commission~~ Department shall be subject to the following terms and conditions:

(1) The time period of the grant or loan agreement between the airport sponsor and the ~~Commission~~ Department shall be twenty (20) years from the date of the airport sponsor's acceptance and/or the life of the improvements contemplated under the grant or loan application, whichever is longer.

(2) The airport and all visual navigational aids shall be under the control of and maintained by the airport sponsor for the period covered by the grant or loan agreement.
(3) For the purposes of the grant or loan agreement, the airport sponsor must have title free and clear of any reversionary interest, lien, easement, lease, or other encumbrance for all property to be constructed on during the grant or loan agreement. If the property is leased, the airport sponsor asserts that the lease will be maintained no less than the time period of the grant or loan agreement, and in both circumstances, asserts that the property will not be used for any purpose other than the operation of the airport. In addition, airport property as defined in the airport layout plan cannot be transferred by the airport sponsor without the written approval of the ~~Commission~~ Department.
(4) The airport and all visual navigational aids shall be made available to all classes of aeronautical users without discrimination by airport sponsor with adequate access at all times.
(5) The airport sponsor will not grant or permit, either directly or indirectly, any exclusive right to any person, firm or corporation for any aeronautical activities, and will terminate any existing exclusive rights now existing before accepting a grant from the ~~Commission~~ Department.
(6) The airport sponsor shall complete the project in accordance with FAA's standard specifications unless prior written modification to standards has been approved by the FAA (for federally funded projects) or the ~~Commission~~ Department (for state only projects). The airport sponsor shall provide the following reports to the Commission:
(A) A weekly progress report using the appropriate FAA form;
(B) A copy of all acceptance tests shall be provided by the acceptance testing laboratory as soon as they are available; and
(C) An acceptance test summary report shall be provided to the ~~Commission~~ Department upon completion of the project.
(7) The airport sponsor, upon request by the Department, shall provide annual statements of airport revenues and expenses.
(8) The airport sponsor shall comply with the Municipal Airports Act, Title 3, Section 65, and the provisions thereafter, of the Oklahoma State Statutes, specifically Section 65.12, that requires that revenues from airport operations be deposited in a separate fund and used exclusively for the airport.
(9) All airport development using grant or loan funds shall be consistent with the Airport Layout Plan approved by the FAA. A copy of the approved Airport Layout Plan, with any modifications, will be filed with the ~~Commission~~ Department.
(10) The airport sponsor shall comply with all applicable provisions of Title 61 of the Oklahoma State Statutes which governs competitive bidding for public construction contracts.
(11) The airport sponsor shall provide a tabulation of all bids signed by the Engineer-of-record for the project with the grant or loan application.
(12) The airport sponsor shall operate lighting for the airport when such lighting is included in the project.
(13) The ~~Commission~~ Department and/or the state are not parties to any contract entered into by the airport sponsor to accomplish the project.
(14) The airport sponsor shall understand and agree that should the airport sponsor fail to abide by all of the terms and conditions of the grant or loan agreement, then the funds provided by the ~~Commission~~ Department shall be withdrawn. In addition, the airport sponsor shall notify the ~~Commission~~ Department of any delays or problems with the project and request an extension or deviation from the ~~Commission~~ Department.
(15) The airport sponsor shall understand and agree that should the airport sponsor fail to submit timely loan payments during the course of the 10 year loan payback period, the airport sponsor will be prohibited from receiving any additional grants or loans until such payments are made and may have existing federal and state projects programmed in the 5-year Airport Construction Program delayed or removed.

(l) **Grant or Loan Agreement; Payments.**
(1) The airport sponsor shall request reimbursement for project costs from the ~~Commission~~ Department on a monthly basis upon initiation of the project. The ~~Commission~~ Department shall reimburse the sponsor only for bid items at the bid unit price. The ~~Commission~~ Department will only process the request for reimbursement when accompanied by the following documentation:
(A) For federal participation grants, a copy of a FAA Invoice Summary Worksheet and a Cost Distribution Worksheet based upon the line items in the executed grant or loan.
(B) For non-federal participation grants, an Invoice Summary Worksheet based upon line items in the executed grant or loan.
(C) Copies of all vendor invoices.

(D) A construction quantities report from the primary contractor signed by the Engineer-of-record.
(E) All test invoices.

(2) The ~~Commission~~ Department shall process the monthly requests for reimbursement until 90% of the grant or loan awarded by the ~~Commission~~Department is expended or 90% of the ~~Commission's~~ Department's total project cost is expended in the event the project comes in under budget. The final 10% will be released upon the completion of the following items:

(A) The summary of acceptance testing report and if required by the specifications, the calculated lot-wise percentage within limits (PWL) of the project. The report shall document the results of all acceptance tests performed, the construction lot, location of the material tested and the quantity represented.
(B) A report submitted by the Resident Inspector or Engineer-of-Record detailing those acceptance tests that were out-of-tolerance and include the pay reductions applied and reasons for accepting any out-of-tolerance material.
(C) All final acceptance and close-out forms for the project have been submitted to the ~~Commission~~ Department.
(D) For federal participation grants, a copy of the final signed FAA form SF 271 Outlay Report.
(E) A satisfactory financial report has been completed by the ~~Commission~~ Department.

(m) **Endorsement by the Commission:**

(1) Upon receipt of the fully executed and complete grant or loan application, the ~~Commission~~ Department staff shall verify compliance with the terms of the notification letter.
(2) If the grant or loan application is found to be in compliance with the terms of the notification letter, the ~~Commission~~ Department staff shall forward the grant or loan application to the Commission for action.
(3) If the Commission approves the grant or loan application, the ~~Commission~~ Department staff shall communicate that approval to the airport sponsor with authorization to proceed.
(4) If the ~~Commission~~ Department staff finds that the grant or loan application is not in compliance with the terms of the notification letter, the ~~Commission~~ Department staff shall notify the airport sponsor of the non-compliance and suggest possible remedies.
(5) Upon receipt of the ~~Commission~~ Department staff's finding of non-compliance, the airport sponsor may:
(A) Modify the grant or loan application to bring it into compliance with the terms of the notification letter; or
(B) State the reason that the airport sponsor believes it is in compliance and request that the grant or loan application be forwarded to the Commission for action; or
(C) Agree that it is not in compliance and request that the grant or loan application be forwarded to the Commission as is.
(D) Request the grant or loan application not be forwarded to the Commission.
(6) The ~~Commission~~ Department staff shall notify the airport sponsor of the Commission's action.

25:15-1-5. Airport compliance [NEW]

It is the Department's goal to use the most effective means to maintain airports in full compliance of grant assurance requirements. Airports must remain in compliance with all grant assurances to remain eligible for grant funding from the Department. When the Department is working with airports to correct a grant assurance violation, the Commission, as the governing body of the Department, may elect to move the airport's compliance status to conditional compliance. Conditional compliance status means an airport may continue to receive grant funding in the future and does not necessitate the immediate removal of any currently awarded grant funding provided the airport is complying with the conditions that the Commission has stipulated and is actively working to correct the grant assurance violation. The Commission may elect to move an airport's compliance status to non-compliance if a grant assurance has been violated. Non-compliance status means that an airport will not be eligible to receive grant funds from the Department in the future and may, at the Commission's sole discretion, require the repayment of previously awarded grant funding.

[OAR Docket #24-665; filed 6-26-24]

TITLE 25. OKLAHOMA DEPARTMENT OF AEROSPACE AND AERONAUTICS
CHAPTER 25. AEROSPACE AND AVIATION EDUCATION GRANT PROGRAM

[OAR Docket #24-670]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
25:25-1-1. Purpose [AMENDED]
25:25-1-2. Requirements for receiving funding for an Aerospace and Aviation Education Grant Program [AMENDED]
25:25-1-3. Criteria selection for applicants [AMENDED]
25:25-1-4. Procedures for awarding funding to an Aerospace and Aviation Education Grant Program [AMENDED]
AUTHORITY:
3 O.S. § 85; Oklahoma Department of Aerospace and Aeronautics
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 21, 2023
COMMENT PERIOD:
January 16, 2024 through February 16, 2024
PUBLIC HEARING:
February 20, 2024
ADOPTION:
March 6, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 6, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The permanent rules will modify the agency name per the requirements set forth in SB 782 that became effective November 1, 2023. Changes include clarifying the operational difference of commission and department throughout the chapter and defining a program's start date.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

25:25-1-1. Purpose [AMENDED]

The purpose of this chapter is to set forth the requirements and criteria for aviation education programs to receive funding from the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~, and to establish the procedures to be followed by the ~~Commission~~ Department in the administration and enforcement of its duties under Title 3, Oklahoma Statutes, Section 85.

25:25-1-2. Requirements for receiving funding for an Aerospace and Aviation Education Grant Program [AMENDED]

(a) The Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ shall identify and award grants to public schools, colleges, and universities, and execute contracts with private entities to promote aviation, aerospace, and STEM (science, technology, engineering and mathematics) education programs that have direct application to aviation and promote careers in aviation and aerospace among Oklahoma students. All grant proposals must demonstrate a direct application to aviation.

(b) Each school, college, university, teacher or private entity must complete the Aerospace and Aviation Education Grant application located on the website of the ~~Commission~~Department.

(c) A private entity or organization must also complete the Aerospace and Aviation Education Grant application and if their application is selected, enter into a contract with the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ for the project. Additional contractual forms will also need to be completed.

(d) Applications must be submitted or postmarked no later than May 31st in order to be considered for the following fiscal year which starts July 1st. If May 31st occurs on a weekend or holiday, applications may be submitted on the next business day following the weekend or holiday.

(e) Applicants who receive approval must provide a Financial Report, corresponding receipts, final invoice and a Completion Report to the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ which documents the usage of funds and gives a detailed description of the program's implementation. This documentation is due within sixty (60) days of the completion of the program.

(f) If the Financial Report, corresponding receipts, final invoice and the Completion Report are not turned in within the sixty (60) day period, the applicant forfeits the remaining twenty percent (20%) or any outstanding balances.

(g) If an applicant forfeits money, the applicant is prohibited from applying for a grant the following year.

(h) Applicants may request a thirty (30) day extension if they are unable to submit the Financial Report, corresponding receipts, final invoice and the Completion Report within the sixty (60) day period.

(i) The thirty (30) day extension request must be received within sixty (60) days of the completion of the program.

(j) The maximum cost share of any grant or contract awarded by the ~~Commission~~ Department shall not exceed 50% of the total program cost unless the funding request by the applicant is less than $3,000 in which case the maximum cost share shall be 90%.

(k) For start-up or new programs, ~~Commission~~ Department funding cannot be provided until all other funding sources necessary to complete the program have been identified.

25:25-1-3. Criteria selection for applicants [AMENDED]

(a) An applicant's program must have a direct application to aviation with the purpose of increasing aerospace and aviation awareness by promoting science, technology, engineering, and mathematics (STEM) education, or encourage Oklahoma students to pursue a career in the aviation/aerospace industry.

(b) Applications will be rated based on, but not limited to, information provided in the application packet, information obtained from an organization's readily available public information, website, or social media, and past history of administering any aviation education grants the organization may have received from the ~~Commission~~ Department. The following criteria will be utilized to rate an applicant:

(1) Program description to include the ability of the program to energize students into joining the aviation/aerospace workforce.

(2) Number of students involved

(3) Program goals and objectives, (items to be funded by the ~~Commission~~ Department must be directly linked to aviation).

(4) Program relevance to current aviation/aerospace industry issues and workforce demands.

(5) Curriculum/subject areas covered

(6) Desired learning outcomes, (items to be funded by the ~~Commission~~ Department must be directly linked to aviation)

(7) Ability of the program to determine measurements of success for students who complete the program. Ability of the program to track students' successes, career path, level of education, or similar measure after completing the program.
(8) Justification of need for the funding
(9) Ability of the program to achieve geographic/demographic diversity among the students who participate in the program.
(c) Applications will also be rated according to the following financial information provided by the applicant:
(1) Total budget of the organization
(2) Total budget of the program
(3) Other contributors and the amount contributed
(4) Percentage of the program that the Oklahoma Department of Aerospace and Aeronautics ~~commission~~ is being asked to fund
(5) Cost of the program per student or for fixed, one-time expenditures, projected benefit and estimated longevity of the program.

25:25-1-4. Procedures for awarding funding to an Aerospace and Aviation Education Grant Program [AMENDED]
(a) Staff will take up to sixty (60) days after the May 31st deadline date to review the applications based upon the above mentioned criteria. Applications will then be submitted to the Commission for approval at the next regularly scheduled Commission meeting. The start date of the program cannot be prior to the date the application is taken before the Commission for approval. Any costs incurred prior to this date are not eligible for reimbursement.
(b) The Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ will make a partial payment of eighty percent (80%) upon completion of the program. The remaining twenty percent (20%) will be paid upon receipt of the Financial Report, corresponding receipts, final invoice and the Completion Report.

[OAR Docket #24-670; filed 6-26-24]

TITLE 25. OKLAHOMA DEPARTMENT OF AEROSPACE AND AERONAUTICS
CHAPTER 30. AIRCRAFT PILOT AND PASSENGER PROTECTION ACT

[OAR Docket #24-672]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
25:30-1-1. Purpose [AMENDED]
25:30-1-2. Definitions [AMENDED]
25:30-1-3. Who is required to file [AMENDED]
25:30-1-4. Who is not required to file [AMENDED]
25:30-1-5. Violations [AMENDED]
Subchapter 3. Application Requirements
25:30-3-1. Application form and time of notice [AMENDED]
25:30-3-2. Acceptance of application and amendments [AMENDED]
25:30-3-4. Fees [AMENDED]
Subchapter 7. Notice, Determination and ~~Commission~~DEPARTMENT Actions [AMENDED]
25:30-7-1. ~~Commission~~Department review [AMENDED]
25:30-7-2. Review time period [AMENDED]
25:30-7-3. ~~Commission~~Department's determination [AMENDED]
25:30-7-4. Actions required for approved applications [AMENDED]
25:30-7-5. Denial of permit [AMENDED]
25:30-7-6. Construction of works. [AMENDED]
Subchapter 9. Permits
25:30-9-1. Contents of permits [AMENDED]
25:30-9-3. Amendments to permit [AMENDED]
Subchapter 11. Miscellaneous Provisions

25:30-11-1. Military airspace [AMENDED]

AUTHORITY:

3 O.S. § 85; Oklahoma Department of Aerospace and Aeronautics

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 22, 2023

COMMENT PERIOD:

January 16, 2024 through February 16, 2024

PUBLIC HEARING:

February 20, 2024

ADOPTION:

March 6, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 6, 2024

LEGISLATIVE APPROVAL:

N/A

LEGISLATIVE DISAPPROVAL:

N/A

APPROVED BY GOVERNORS DECLARATION:

Approved by Governor's Declaration on June 21, 2024

FINAL ADOPTION:

June 21, 2024

EFFECTIVE:

August 11, 2024

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:

N/A

GUBERNATORIAL APPROVAL:

N/A

REGISTER PUBLICATION:

N/A

DOCKET NUMBER:

N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

The permanent rules will modify the agency name per the requirements set forth in SB 782 that became effective November 1, 2023. Changes include defining department, updating the definition of commission, and clarifying the operational difference of commission and department throughout the chapter. Clarity is also given on when a permit is not required to be filed.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

25:30-1-1. Purpose [AMENDED]

The purpose of this chapter is to set administrative rules for the implementation of HB 2919-the Aircraft Pilot and Passenger Protection Act. This chapter establishes the requirements and procedures to be followed by the ~~Commission~~ Department in the administration and enforcement of its duties under Title 3, Oklahoma Statues, Section 120.1 for construction of structures in the vicinity of public-use airports.

25:30-1-2. Definitions [AMENDED]

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

"Airport elevation" is the highest point of an airport's usable runways measured in feet from mean sea level;

"Airport reference point" is the geometrical center of all usable runways;

"Applicant" is an individual, firm, partnership, corporation, association, or body politic and includes a trustee, receiver, assignee, or other similarly authorized representative of any of them;

"Approach surface" is an imaginary surface shaped like a trapezoid:

(A) longitudinally centered on the extended runway centerline at a public use airport,

(B) beginning two hundred (200) feet beyond the end of each runway pavement and at the runway end elevation,

(C) having an inner-edge width of one thousand (1,000) feet expanding outward uniformly to a width of sixteen thousand (16,000) feet at the outer edge, and

(D) sloping upward for a distance of ten thousand (10,000) feet at a slope of fifty (50) to one (1), with an additional forty thousand (40,000) feet at a slope of forty (40) to one (1);

"Commission" means the seven members of the Oklahoma Aerospace and Aeronautics Commission ~~or a successor agency;~~as appointed by the governor.

"Conical surface" is an imaginary surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of four thousand (4,000) feet;

"Department" means the Oklahoma Department of Aerospace and Aeronautics, the state agency responsible for the administration and enforcement of the aircraft pilot and passenger protection act.

"FAA" means the Federal Aviation Administration or a successor agency;

"Horizontal surface" is an imaginary horizontal plane one hundred fifty (150) feet above the airport elevation, the perimeter of which is constructed by swinging arcs of ten thousand (10,000) feet radii from a point located on the extended runway centerline two hundred (200) feet beyond each end of runway pavement and connecting the adjacent arcs by lines tangent to those arcs;

"Incompatible purpose" means the use of a building structure, or area as a residence, educational center (including all types of primary and secondary schools, preschools, and child-care facilities), place of worship, place of public assembly, hospital, medical inpatient treatment facility, nursing/convalescent home, retirement home, transportation facility, storage facility, above-ground utility facility, or similar use;

"Legal representative" means a person who is authorized to legally bind an entity;

"Permit" means a permit issued by the ~~Commission~~ Department under this act;

"Person" means an individual, firm, partnership, corporation, association, or body politic and includes a trustee, receiver, assignee, or other similarly authorized representative of any of them;

"Primary surface" is a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is one thousand (1,000) feet;

"Public-use airport" means a structure or an area of land or water that is designed and set aside for the landing and taking off of aircraft, is utilized or to be utilized by and in the interest of the public for the landing and taking off of aircraft and is identified by the FAA as a public-use airport. Public-use airport shall include any military airport operated by a branch of the armed services of the United States government. Public-use airport shall not include any privately owned airport for private use as identified by the FAA, or any airport owned by a municipality with a population exceeding five hundred thousand (500,000) according to the most recent Federal Decennial Census;

"Runway" means the portion of an airport designated as the area used for the landing or takeoff of aircraft;

"Runway protection zone" is a trapezoidal zone centered along the extended runway centerline, beyond each end of the primary surface, two thousand five hundred (2,500) feet long, with an inner width of one thousand (1,000) feet and an outer width of one thousand seven hundred fifty (1,750) feet. The function of the runway protection zone is to enhance the protection of people and property on the ground;

"Structure" means any constructed or installed object or area, including, but not limited to, buildings, towers, wind turbines, smokestacks, electronic transmission or receiving towers, and antennae and overhead transmission lines. The term does not include:

(A) any aviation navigational aids that are fixed by function, or

(B) any construction or installed object on property owned by the federal government; and

"Total structure height" means the elevation of the ground above mean sea level at the structure's location, plus the height of the structure above ground level in feet, plus the applicable survey type adjustment, as described in Appendix A, provided the survey adjustment is in accordance with Federal AviationAdministration standards.

25:30-1-3. Who is required to file [AMENDED]

A person shall obtain a permit from the ~~Commission~~ Department prior to the construction or installation of any of the following near a public-use airport:

(1) Any proposed structure for an incompatible purpose in the primary surface or the runway protection zone;

(2) Any structure, alteration or addition to a structure within three (3) statute miles from the airport reference point of a public-use airport, that would result in a total structure height in excess of one hundred fifty (150) feet above the airport elevation; and

(3) Any structure, alteration or addition to a structure that would result in a total Structure height greater than the horizontal, conical or approach surfaces, as Defined in 25:30-1-2 of the Aircraft Pilot and Passenger Protection Act.

25:30-1-4. Who is not required to file [AMENDED]

A permit from the ~~Commission~~ Department shall not be required for the following:

(1) For mobile or temporary equipment used to construct or install a new structure or to perform routine maintenance, repairs, or replace parts of an existing structure, or for temporary structures that will be in place for less than 24 months; or

(2) To repair, replace, or alter an existing structure or change the location of an existing structure that would not result in a total structure height greater than the horizontal, conical or approach surfaces as defined in Section 25:30-1-2~~,or change the location of an existing structure~~.

(3) Structures that exist or have an approved building permit from the local authority with jurisdiction over the property that the structure is proposed to be constructed upon, prior to October 1, 2010.

(4) Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation. This shielding is only applicable for a tall structure permit and is not pertinent for an incompatible purpose permit.

25:30-1-5. Violations [AMENDED]

Each violation of the Aircraft Pilot and Passenger Protection Act, or rulings promulgated by the ~~Commission~~ Department pursuant to this act, shall constitute a misdemeanor punishable by a fine of not more than Five Hundred Dollars ($500.00). Each day that such a failure continues constitutes a separate violation. In addition, the ~~Commission~~ Department may institute in any court of general jurisdiction, an action to prevent, restrain, correct, or abate any violation of this act, or any rules adopted or orders issued by the ~~Commission~~ Department pursuant to this act. The court may grant such relief, by way of injunction, which may be mandatory, or otherwise, as may be necessary under this act and the applicable rules or orders of the ~~Commission~~ Department issued under this act.

SUBCHAPTER 3. APPLICATION REQUIREMENTS

25:30-3-1. Application form and time of notice [AMENDED]

(a) **Form.** Each person that is required to file for a permit from the ~~Commission~~ Department in accordance with 25:30-1-3, shall send one original and one copy of ~~OAC~~ Department form A-1 to the ~~Commission~~ Department or on an electronic form approved by the ~~Commission~~ Department. Copies of the Form may be obtained free of charge from the ~~Commission's~~ Department's Office or downloaded in electronic format from the ~~Commission's~~ Department's website. The ~~Commission~~ Department will make available a web-based application for online permit application that is consistent with the requirements set forth in Title 62 of the Oklahoma Statutes.

(b) **Additional application requirements.** Applications to the ~~Commission~~ Department for a permit in accordance with the provisions of these rules shall include the following in addition to the requirements of 25:30-3-1(a):

(1) For construction in a primary surface or runway protection zone, in accordance with section 25:30-5-1:

(A) The following statement signed by a legal representative of the applicant: "The applicant acknowledges for itself, its heirs, its successors, ant its assigns, that the real estate described in this application is located in the primary surface or the runway protection zone of a public-use airport, and that the applicant is building a structure upon this real estate, with the full knowledge and acceptance that it may be incompatible with the normal airport operations including the landing and takeoff of aircraft."

(B) if notice is required to be filed with FAA, a copy of the FAA Form 7460-1, "Notice of Proposed Construction or Alteration", as described in 14 CFR part 77, sub-part B, Section 17, to be submitted to the FAA.

(2) For construction or alteration of a structure in a horizontal, conical, or approach surface in accordance with section 25:30-5-2: a copy of FAA Form 7460-1, if required to be submitted to the FAA.

(c) **When to file for a permit.** If FAA Form 7460-1 is required to be filed for the proposed construction, then an application for a permit pursuant to Section 25:30- 1-3 shall be filed at the same time the FAA Form 7460-1 is sent to the FAA, or at any time before that. If FAA Form 7460-1 is not required to be filed with the FAA, then the application shall be filed at least thirty (30) days before the earlier of the following:

(1) The date the proposed construction or alteration is to begin; or

(2) The date an application for a construction or building permit is to be filed with the municipality.

25:30-3-2. Acceptance of application and amendments [AMENDED]

(a) **Complete applications.** The date of receipt of an application shall be the date the ~~Commission~~ Department determines an application is complete in all respects including application fee in accordance with 25:30-3-4, and this date termed as the "date of record" shall be noted in the records.

(b) **Incomplete applications.** If the ~~Commission~~ Department determines the application is incomplete, the ~~Commission~~ Department shall advise the applicant and a period of sixty (60) days shall be allowed for the refiling of a complete application. If the ~~Commission~~ Department determines that a completed application was not submitted within the time allowed, the ~~Commission~~ Department will consider the application withdrawn, unless the ~~Commission~~ Department agrees to give the applicant more time.

(c) **Application amendments.** Applications shall be amended or revised by the applicant or his legal representative. Amendments to the application will be classified as either minor or major, depending upon the nature of the amendment requested.

(1) **Minor amendments** are administrative in nature and do not amend the location or total height of the proposed structure. Also, a minor amendment will not amend the "date of record" of the application.

(2) **Major amendments** are defined as those that affect the location and/or the total structure height. The "date of record" for a completed application will be revised once the amendment has been accepted by the ~~Commission~~ Department.

25:30-3-4. Fees [AMENDED]

Pursuant to Title 3, Oklahoma Statues, Section 120.1 for construction of structures in the vicinity of public-use airports, the ~~Commission~~ Department shall charge reasonable fees for services rendered, not to exceed Two Hundred Dollars ($200.00). All fees shall be paid to the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~. Required fees must be paid before any action will be taken by the ~~Commission~~ Department on the matter relating thereto and before the issuance of any permit. Permit fees will not be refunded if the application for a permit is denied or withdrawn. The following fee will be charged: Application for a new permit: $200.00

SUBCHAPTER 7. NOTICE, DETERMINATION AND ~~COMMISSION~~DEPARTMENT ACTIONS [AMENDED]

25:30-7-1. ~~Commission~~Department review [AMENDED]

(a) Upon receiving an application, the ~~Commission~~ Department shall notify a legal representative of the public-use airport owner affected by the application and solicit comments from the airport owner.

(b) In determining whether to issue a permit, the ~~Commission~~ Department shall consider sections 25:30-5-1 and 25:30-5-2, and the following:

(1) The nature of the terrain and height of existing structures;

(2) Public and private interests and investments of an airport;
(3) The character of flying operations and planned developments of an airport;
(4) Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport;
(5) Technological advances;
(6) The safety of persons on the ground and in the air;
(7) Land use density;
(8) Comments from all interested persons;
(9) Findings and determinations of other government agencies;
(10) Depending upon the type of survey used, an adjustment will be made in accordance with FAA regulations to the horizontal and vertical measurements of the proposed structure as described in Appendix A of this Chapter. If the survey type (horizontal and vertical) is not certified by a licensed engineer or a licensed surveyor, a horizontal adjustment of plus or
minus two hundred fifty (250) feet and a vertical adjustment of fifty (50) feet will be applied to the structure measurements;
(11) Any other information the ~~Commission~~ Department finds pertinent to that applications review.

25:30-7-2. Review time period [AMENDED]

The review time period for an application will commence once a complete application has been accepted in accordance with section 25:30-3-2.

(1) If FAA Form 7460-1 is also required to be filed with FAA, then the ~~Commission~~ Department shall notify the applicant of its determination within thirty (30) days of the FAA completing its aeronautical study. If the applicant has not been notified by the ~~Commission~~ Department of its determination within thirty (30) days of the FAA completing its aeronautical study, then the applicant shall notify the ~~Commission~~ Department that it has not received notice of the ~~Commission's~~ Department's determination. The ~~Commission~~ Department shall then have seven (7) working days from the date of the applicant's notice to notify the applicant of its determination. Nothing herein precludes the ~~Commission~~ Department from making its determination before the FAA completes its aeronautical study.
(2) If FAA Form 7460-1 is not required, then the ~~Commission~~ Department shall notify the applicant of its determination within sixty (60) days of the date of record. If the applicant has not been notified by the ~~Commission~~ Department of its determination within sixty (60) days of date of record, then the applicant shall notify the ~~Commission~~ Department that it has not received notice of the ~~Commission's~~ Department's determination. The ~~Commission~~ Department shall then have seven (7) working days from the date of the applicant's notice to notify the applicant of its determination.

25:30-7-3. ~~Commission~~Department's determination [AMENDED]

The ~~Commission's~~ Department's review of an application can lead to the following determinations:
(1) The proposed construction would exceed the obstruction standards set forth in sections 25:30-5-1 or 25:30-5-2 and is therefore denied;
(2) The proposed construction would exceed the limitations set forth in section 25:30-1-3; however, due to other considerations listed in section 25:30-7-1, the application is approved; and
(3) The proposed construction would not exceed any limitation set forth in section 25:30-1-3; therefore, a permit from the ~~Commission~~ Department is not required and shall not be issued.

25:30-7-4. Actions required for approved applications [AMENDED]

Upon the determination of the ~~Commission~~ Department to approve an application, an original permit shall be forwarded to the applicant. The applicant shall complete the following steps:
(1) The applicant for a permit under Section 25:30-1-3 shall record each permit issued by the ~~Commission~~ Department in the office of the county clerk for the county where the structure is located not later than sixty (60) business days after the ~~Commission~~ Department issues the permit. If a structure is located in more than one county, the county that contains the majority of the structure is the county in which the permit must be filed. A permit issued under Section 25:30-1-3 (1) shall contain the following statement: "The permittee acknowledges for itself, its heirs, its successors, and its assigns, that the real estate described in this permit is located within the primary surface or the runway protection zone of a public-use airport, and that the permittee is building a

structure upon this real estate with the full knowledge and acceptance that it may be incompatible with normal airport operations including the landing and takeoff of aircraft."
(2) Every permit issued by the ~~Commission~~ Department shall specify that obstruction markers, markings, lighting, or other visual or aural identification required to be installed on or in the vicinity of the structure shall conform to federal laws and regulations; and
(3) A permit issued in accordance with the provisions of Section 25:30-7-3 is valid only after the ~~Commission~~ Department receives a certified copy of the recorded permit with the recording data from the county clerk of the county in which the structure is located.
(4) Once a permit is valid the permittee may request to amend a permit under these conditions:
(A) The amendment is to change the administrative items of the permit including the transfer of ownership rights. There shall be no limit to the amount of times a permittee can request an amendment that is administrative in nature.
(B) The amendment is for the purposes of micro-siting a structure that has been permitted, but not yet constructed. Micro-siting shall allow for a structure to be moved 400 feet or less in a horizontal direction provided the new location will not impact an airport's instrument or visual approaches. A permittee can request to amend a permit for micro-siting up to two times. A third micro-siting request on the structure will require the permittee to file a new permit application.

25:30-7-5. Denial of permit [AMENDED]
(a) **Denial of permit and notification.** If the ~~Commission~~ Department determines that a permit should not be issued under the provisions of these rules, the ~~Commission~~ Department shall notify the applicant in writing of its determination by sending it through certified or registered mail to the applicant at the address specified in the application.
(b) **Final determination and/or reconsideration.** The determination is final thirty (30) days after notification of the determination is served, unless the applicant, within the thirty-day period, requests reconsideration in writing to the ~~Commission~~ Department and provides written evidence showing why the application should have been approved. The ~~Commission~~ Department has up to a period of thirty (30) days from the receipt of the request. The ~~Commission~~ Department shall notify the applicant of its determination as specified in subsection (a) of this section. In the event of a second denial by the ~~Commission~~ Department of the permit request, the applicant can request a hearing before the ~~Commission~~ Department with reference to the application. A hearing under this section shall be open to the public. The applicant may appear and be heard either in person or by counsel and may present pertinent evidence and testimony. At the hearing, the applicant has the burden to show cause why the ~~Commission~~ Department should have issued the permit to erect the proposed structure.

25:30-7-6. Construction of works. [AMENDED]
A permit issued in accordance with the provisions of the Aircraft Pilot and Passenger Protection Act is valid only if the proposed structure has been constructed within ten (10) years of the issuance of a permit by the ~~Commission~~ Department pursuant to Section 25:30-7-4.

SUBCHAPTER 9. PERMITS

25:30-9-1. Contents of permits [AMENDED]
(a) Every permit issued by the ~~Commission~~ Department shall contain the following:
(1) The date the permit is issued.
(2) The county or counties in which the structure(s) is or are located.
(3) The permit number and date issued, which shall be the date the permit is approved by the ~~Commission~~ Department or where appropriate, by the Director.
(4) The name and address to whom issued.
(5) The purpose for which the structure will be used.
(6) Survey information of the site location and total height of the structure provided with the application.
(7) Any other items to be specified by the ~~Commission~~ Department.
(b) In addition to the above, the permit shall contain any additional terms, conditions, limitations, or restrictions the ~~Commission~~ Department may prescribe.

25:30-9-3. Amendments to permit [AMENDED]

The ~~Commission~~ Department shall consider amendments to permits that are administrative in nature including the transfer of ownership rights. The permit holder or his legal representative shall notify the ~~Commission~~ Department in writing of the amendments to the permit and shall provide the affected permit number(s). A change to the latitude/longitude or an increase in the total height of a permitted structure will require the applicant to obtain a new permit.

SUBCHAPTER 11. MISCELLANEOUS PROVISIONS

25:30-11-1. Military airspace [AMENDED]

(a) Any person required to notify the FAA of any proposed construction or alteration pursuant to Subpart B of Section 77.13 of the Federal Aviation Regulations Part 77, that in response receives an acknowledgement from the FAA that further aeronautical study is required to determine whether the proposed construction or alteration would be a hazard to air navigation, shall, upon requesting further aeronautical study by the FAA, concurrently notify the ~~Commission~~ Department of the request and shall provide the ~~Commission~~ Department with true and correct copies of all relevant filings made with the FAA.

(b) Upon receipt of such notification of the filing of a request for further aeronautical study, the ~~Commission~~ Department shall give timely notice thereof to the Oklahoma Strategic Military Planning Commission, or any successor agency, and to any military airport within Oklahoma potentially affected by the proposed construction or alteration.

(c) The ~~Commission~~ Department further shall use its best efforts to establish regular and consistent communication with the FAA to encourage sharing of information regarding construction or alteration in a military training route or slow-speed lowaltitude training route within the state of Oklahoma with appropriate state agencies and military installations.

[OAR Docket #24-672; filed 6-26-24]

TITLE 25. OKLAHOMA DEPARTMENT OF AEROSPACE AND AERONAUTICS
CHAPTER 35. ANEMOMETER TOWER REGULATIONS

[OAR Docket #24-673]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
25:35-1-1. Purpose [AMENDED]
25:35-1-2. Definitions [AMENDED]
25:35-1-3. Additional zoning requirements [AMENDED]
Subchapter 5. Establishment of Database
25:35-5-1. Database requirements [AMENDED]
AUTHORITY:
3 O.S. Section 85; Oklahoma Department of Aerospace and Aeronautics
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 21, 2023
COMMENT PERIOD:
January 16, 2024 through February 16, 2024
PUBLIC HEARING:
February 20, 2024
ADOPTION:
March 6, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 6, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A

APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The permanent rules will modify the agency name per the requirements set forth in SB 782 that became effective November 1, 2023. Changes include defining department, updating the definition of commission, and clarifying the operational difference of commission and department throughout the chapter.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

25:35-1-1. Purpose [AMENDED]

The purpose of this chapter is to set forth administrative rules for the implementation of Title 3, Oklahoma Statutes, Section 121. This chapter establishes the requirements and procedures to be followed by the ~~Commission~~ Department in the administration and enforcement of its duties under this provision. HB 3348 gives the ~~Commission~~ Department the authority to promulgate rules to ensure that anemometer towers are marked for clear visibility and to establish a data base of anemometer tower locations throughout the state.

25:35-1-2. Definitions [AMENDED]

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

"Anemometer" is an instrument for measuring and recording wind speed;

"Anemometer tower" is a structure, including all guy wires and accessory facilities, on which an anemometer is mounted, that is fifty (50) feet in height above the ground or higher, is not located within the boundaries of a municipality, and whose appearance is not otherwise regulated by state or federal law; and

"Commission" means the seven members of the Oklahoma Aerospace and Aeronautics Commission as ~~created in Title 3, Oklahoma Statutes, Section 84 of the Oklahoma Statues~~appointed by the governor.

"Department" means the Oklahoma Department of Aerospace and Aeronautics, the state agency responsible for the administration and enforcement of the anemometer tower regulations.

25:35-1-3. Additional zoning requirements [AMENDED]

In addition to any zoning requirements of the Airport Zoning Act or the Aircraft Pilot and Passenger Protection Act, the ~~Commission~~ Department shall promulgate rules regulating the appearance of anemometer towers to ensure that anemometer towers are clearly recognizable in clear air during daylight hours.

SUBCHAPTER 5. ESTABLISHMENT OF DATABASE

25:35-5-1. Database requirements [AMENDED]

(a) The ~~Commission~~ Department shall establish and maintain a database containing the location of all anemometer towers by November 1, 2015. The ~~Commission~~ Department may contract with a governmental entity or private entity to create and maintain the database.
(b) An owner of any existing anemometer tower erected in the state shall provide the ~~Commission~~ Department with information that specifies the owner, location and height of the tower and any other information that the ~~Commission~~ Department finds necessary for aviation safety.
(c) At least ten (10) days before the erection of an anemometer tower, an owner of the tower shall provide the ~~Commission~~ Department with information that specifies the owner, location and height of the tower and any other information that the ~~Commission~~ Department finds necessary for aviation safety.
(d) An owner of an anemometer tower shall notify the ~~Commission~~ Department within thirty (30) days after the removal of the tower.

[OAR Docket #24-673; filed 6-26-24]

TITLE 25. OKLAHOMA DEPARTMENT OF AEROSPACE AND AERONAUTICS
CHAPTER 40. WIND ENERGY RULES

[OAR Docket #24-675]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
25:40-1-1. Purpose of this chapter [AMENDED]
25:40-1-2. Definitions [AMENDED]
Subchapter 3. Submittal Requirements for Federal Aviation Adminstration and Department of Defense Documentation
25:40-3-1. Notification of intent to build a wind energy facility and other notices [AMENDED]
25:40-3-2. Final Documentation from the Federal Aviation Administration and Department of Defense [AMENDED]
Subchapter 5. ~~Aeronautics Commission~~OKLAHOMA DEPARMENT OF AEROSPACE AND Aeronautics Actions to the Oklahoma Strategic Military Planning Commission [AMENDED]
25:40-5-1. Notification to the Strategic Military Planning Commission [AMENDED]
AUTHORITY:
3 O.S. § 85; Oklahoma Department of Aerospace and Aeronautics
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 21, 2023
COMMENT PERIOD:
January 16, 2024 through February 16, 2024
PUBLIC HEARING:
February 20, 2024
ADOPTION:
March 6, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 6, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:

N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The permanent rules will modify the agency name per the requirements set forth in SB 782 that became effective November 1, 2023. Changes include defining department, updating the definition of director, and updating the agency name throughout the chapter.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

25:40-1-1. Purpose of this chapter [AMENDED]

The purpose of this chapter is to implement the Oklahoma Department of Aerospace and Aeronautic's ~~AeronauticsCommission's~~ responsibilities within the Oklahoma Wind Energy Development Act, 17 O.S. §§ 160.11 *et seq.*, by establishing rules and procedures for an owner of a wind energy facility to submit documentation to the Oklahoma Deparment of Aerospace and Aeronautics ~~Commission~~.

25:40-1-2. Definitions [AMENDED]

In addition to terms defined in the Oklahoma Wind Energy Development Act, 17 O.S. § 160.11 et seq., the following word(s) or term(s), when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Clearinghouse" means the Military Aviation and Installation Assurance Siting Clearinghouse.

"Department" means the Oklahoma Department of Aerospace and Aeronautics.

"Determination of No Hazard" means a document issued by the Federal Aviation Administration.

"Director" means the Director of the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~.

"FAA" means the Federal Aviation Administration.

"Owner" means the entity having a majority equity interest in commercial wind energy equipment, including their respective successors and assigns.

"Project boundary" means a graphic depiction of a wind energy facility's outer boundary, which should adequately demonstrate the project's outer perimeter, inclusive of all wind turbines.

"Wind energy facility" means an electrical generation facility consisting of one or more wind turbines under common ownership or operating control, and includes substations, meteorological data towers, aboveground and underground electrical transmission lines, transformers, control systems, and other buildings or facilities used to support the operation of the facility, and whose primary purpose is to supply electricity to an off-site customer or customers. Wind energy facility shall not include a wind energy facility located entirely on property held in fee simple absolute estate by the owner of the wind energy facility.

"Wind turbine" means a wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blade, tower, base, and pad transformer, if any.

SUBCHAPTER 3. SUBMITTAL REQUIREMENTS FOR FEDERAL AVIATION ADMINSTRATION AND DEPARTMENT OF DEFENSE DOCUMENTATION

25:40-3-1. Notification of intent to build a wind energy facility and other notices [AMENDED]

(a) The owner of a wind energy facility shall submit to the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ copies of all initial FAA 7460-1 form(s) for all individual wind turbines or any other individual structure that requires a FAA form 7460-1 that is part of a wind energy facility within thirty (30) days of the initial filing with the FAA.

(b) If the owner of a wind energy facility is required to file subsequent 7460-1 forms with the FAA due to changing locations or heights of individual structures from the locations or heights originally proposed in the initial 7460-1 forms submitted to the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~, the owner shall, within ten (10) calendar days of filing with the FAA, submit such subsequent 7460-1 forms to the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~.

(c) The 7460-1 form(s) shall be submitted electronically unless prior approval of another format has been granted by the Director. A cover letter shall accompany the 7460-1 form(s) detailing the name of the project, the owner of the wind energy facility, and indicating whether the submittal is for initial 7460-1 form(s) or subsequent 7460-1 form(s).

25:40-3-2. Final Documentation from the Federal Aviation Administration and Department of Defense [AMENDED]

(a) The owner of a wind energy facility shall submit to the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ the Determination of No Hazard from the FAA for each individual wind turbine or other individual structure that requires a 7460-1 form that is part of a wind energy facility prior to the start of construction.

(b) The owner of a wind energy facility shall submit to the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ the Military Compatibility Certification Letter or successor form from the Clearinghouse which serves as documentation of the resolution of adverse impacts to the Department of Defense prior to the start of construction.

(c) All submissions shall be submitted electronically unless prior approval of another format has been granted by the Director.

SUBCHAPTER 5. ~~AERONAUTICS COMMISSION~~OKLAHOMA DEPARMENT OF AEROSPACE AND AERONAUTICS ACTIONS TO THE OKLAHOMA STRATEGIC MILITARY PLANNING COMMISSION [AMENDED]

25:40-5-1. Notification to the Strategic Military Planning Commission [AMENDED]

After receiving a FAA 7460-1 form from the owner of a wind energy facility, either as an initial or subsequent 7460-1 form, the Oklahoma Department of Aerospace and Aeronautics ~~Commission~~ shall notify the Strategic Military Planning Commission within 10 days of receiving the 7460-1 form.

[OAR Docket #24-675; filed 6-26-24]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 10. AGRICULTURAL PRODUCTS

[OAR Docket #24-657]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
35:10-1-3. Handbook and publication editions [AMENDED]
AUTHORITY:
Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); and 2 O.S. § 14-31 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 13, 2023
COMMENT PERIOD:
December 1, 2023 through January 4, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 26, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The proposed rule amendments update handbook and publication references.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

35:10-1-3. Handbook and publication editions [AMENDED]

References to a Handbook or publication in these rules shall mean the following edition of the National Institute of Standards and Technology (NIST), unless a different reference is made in the text of the rule:

(1) Handbook 44 "Specifications, Tolerances and Other Technical Requirements for Commercial Weighing & Measuring Devices" (~~2023~~2024 Edition).

(2) Handbook 130 "Uniform Laws and Regulations" (~~2023~~2024 Edition), excluding Section G "Uniform Engine Fuels and Automotive Lubricants Regulation."

(3) Handbook 133 "Checking the Net Contents of Packaged Goods" (2023 Edition).

(4) Handbook 105-1 "Specifications and Tolerances for Field Standard Weights" (2019 Edition).

(5) Handbook 105-2 "Specifications and Tolerances for Field Standard Measuring Flasks" (2021 Edition).

(6) Handbook 105-3 "Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards" (2010 Edition).

(7) Publication 14 (~~2021~~2024 Edition).

(8) Publication 12 (1991 Edition).

(9) Federal Grain Inspection Service Moisture Handbook (2006 Edition).

[OAR Docket #24-657; filed 6-26-24]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 15. ANIMAL INDUSTRY

[OAR Docket #24-667]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Animal Health Reportable Diseases
35:15-3-2. Oklahoma reportable disease list [AMENDED]
Subchapter 5. Biological Products and Laboratories
35:15-5-1. Biological products [AMENDED]
Subchapter 9. Livestock Special Sales
Part 3. LIVESTOCK SPECIAL SALES
35:15-9-9. Submission of record sales [AMENDED]
Subchapter 11. Importation of Animals
Part 1. GENERAL
35:15-11-1. General import and exportation requirements [AMENDED]
Part 13. EQUINE PIROPLASMOSIS [REVOKED]
35:15-11-51. Purpose [REVOKED]
35:15-11-52. Definitions [REVOKED]
35:15-11-53. Testing for Equine Piroplasmosis [REVOKED]
35:15-11-54. Management and disposition of Positive Equidae [REVOKED]
35:15-11-55. Release and removal options for Exposed Equidae [REVOKED]
35:15-11-56. Long term maintenance of Negative Exposed Equidae [REVOKED]
Subchapter 13. Testing and Inspection for Disease and Release of Livestock at Auction Markets
35:15-13-3. General requirements for a livestock auction market [AMENDED]
35:15-13-6. Movement of livestock through livestock auction markets [AMENDED]
35:15-13-7. Specific approval of livestock auction markets [AMENDED]
Subchapter 15. Equine Infectious Anemia (EIA)
Part 1. GENERAL PROVISIONS
35:15-15-4. Definitions [AMENDED]
Part 3. PROCEDURES
35:15-15-33. Submission of sample and test charts [AMENDED]
35:15-15-34. Requirements for approved EIA testing laboratories [AMENDED]
35:15-15-36. Classification of Equidae tested [AMENDED]
35:15-15-38. Identification of positive Equidae [AMENDED]
35:15-15-39. Quarantines [AMENDED]

35:15-15-42. Movement of positive and exposed animals [AMENDED]
35:15-15-43. Requirements for quarantined holding facilities [REVOKED]
Part 5. CHANGE OF OWNERSHIP OF EQUIDAE
35:15-15-51. Testing requirements for change of ownership [AMENDED]
35:15-15-52. Intrastate movement [REVOKED]
Part 7. REQUIREMENTS FOR APPROVED MARKETS
35:15-15-71. Movement of Equidae through approved markets [AMENDED]
Part 9. EQUINE EXHIBITIONS
35:15-15-91. Requirements of Equidae entering equine exhibitions [AMENDED]
Subchapter 17. Bovine and Bison Brucellosis
Part 1. DEFINITIONS AND GENERAL PROVISIONS
35:15-17-3. Identification of vaccinates [AMENDED]
Subchapter 18. ~~SUBCHAPTER 18.~~ EQUINE PIROPLASMOSIS [NEW]
35:15-18-1. Purpose [NEW]
35:15-18-2. Definitions [NEW]
35:15-18-3. Testing for Equine Piroplasmosis [NEW]
35:15-18-4. Management and disposition of Positive Equidae [NEW]
35:15-18-5. Release and removal options for Exposed Equidae [NEW]
35:15-18-6. Long term maintenance of Negative Exposed Equidae [NEW]
Subchapter 19. Poultry Regulations
35:15-19-1. Definitions [AMENDED]
35:15-19-2. Applicability and scope [AMENDED]
Subchapter 22. Swine Pseudorabies and Brucellosis
Part 1. GENERAL PROVISIONS
35:15-22-1. Definitions [AMENDED]
Part 5. REQUIREMENTS FOR A VALIDATED/QUALIFIED HERD
35:15-22-53. V/Q herd maintenance [AMENDED]
Part 7. REQUIREMENTS FOR SWINE EXHIBITIONS
35:15-22-71. Exhibition requirements [AMENDED]
35:15-22-72. Swine exhibition event requirements [AMENDED]
Subchapter 38. Bovine Trichomoniasis
35:15-38-1. Definitions [AMENDED]
35:15-38-3. Import requirements for reproductive bovine females [AMENDED]
Subchapter 40. Bovine Tuberculosis
Part 1. DEFINITIONS
35:15-40-1. Definitions [AMENDED]
Part 3. GENERAL TUBERCULOSIS RULES
35:15-40-49.2. Mexican and rodeo or event cattle intrastate regulations [AMENDED]
Subchapter 44. Farmed Cervidae
35:15-44-19. Entry and export requirements [AMENDED]
Subchapter 47. Chronic Wasting Disease (CWD) in Cervids
Part 3. HERD CERTIFICATION STANDARDS
35:15-47-6. Minimum requirements for herd certification [AMENDED]
Subchapter 49. Miscellaneous Animal Diseases
35:15-49-1. Definitions [AMENDED]
35:15-49-7. Equine herpes virus [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 6-1 et seq., 2 O.S. § 6-91 et seq., 2 O.S. § 6-121 et seq., 2 O.S. § 6-131 et seq., 2 O.S. § 6-141 et seq., 2 O.S. § 6-281 et seq., 2 O.S. § 6-501 et seq., 2 O.S. § 6-601 et seq., and 2 O.S. § 9-130 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 7, 2023

COMMENT PERIOD:

December 1, 2023 through January 4, 2024

PUBLIC HEARING:

January 4, 2024

ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 26, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rule amendments add requirements for exportation of animals; relocates Equine Piroplasmosis from part 13 of subchapter 11 to subchapter 18; requires that a routine livestock auction receive special permission to do auctions on a Sunday; expands tuberculosis tests to all cattle after livestock auctions; removes the definition of direct shipment to slaughter and quarantined holding facility; adds a definition for official test record; expands the EIA test chart to those approved by the USDA; removes the $50.00 fee for the Board to administer additional proficiency tests for EIA laboratories; requires EIA retests to be submitted to the National Veterinary Services Laboratory or an approved laboratory instead of ODAFF Laboratory Services; removes the waiver of quarantine; removes the number of days required for release of quarantine for Equidae; adds release of quarantine requirements for exposed, contact or adjacent hers; revokes the requirements for quarantined holding facilities; adds language that the test accession number must be included in change of ownership of Equidae and that the documents must be legible; revokes the intrastate movement language; removes language that ear tags for bovine and bison have the state prefix, letters and numbers; expands the definition of poultry; incorporates by reference Title 9 of the Code of Federal Regulations, Sections 145-147; defines premium sale for swine pseudorabies; adds dates and timeframes for swine exhibition events; updates the definitions for bovine trichomoniasis; defines events for roping cattle; expands cattle intrastate regulations to apply to rodeos or events; adds language for maintaining sherd certification if animal deaths are not tested; incorporates by reference the 2018 Equine Herpes Virus Myeloencephalopathy Incident Guidelines.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. ANIMAL HEALTH REPORTABLE DISEASES

35:15-3-2. Oklahoma reportable disease list [AMENDED]

The State Veterinarian shall develop and maintain a list of reportable diseases which may be accessed ~~at the internet address: www.ag.ok.gov/ais~~on the Oklahoma Department of Agriculture, Food, and Forestry webpage.

SUBCHAPTER 5. BIOLOGICAL PRODUCTS AND LABORATORIES

35:15-5-1. Biological products [AMENDED]

(a) No biological product used in the treatment of livestock or any other species of animals shall be manufactured, produced, transported, distributed, sold, offered for sale, or used in Oklahoma unless the biological product has been:

(1) Licensed or permitted by the United States Veterinary Biologics Division of the United States Department of Agriculture;

(2) Produced in an establishment licensed by the United States Veterinary Biologics Division of the United States Department of Agriculture; and

(3) Approved by the Oklahoma Department of Agriculture, Food, and Forestry.

(b) Biological products prepared by any person solely for the treatment of livestock or any other species of animals of such person or prepared solely for treatment of livestock or any other species of animals under a veterinary-client-patient relationship ~~in the course of~~ during the state licensed professional practice of veterinary medicine by such person shall be exempt from (a) and (d) of this section if used as follows:

(1) Permission is obtained from the State Veterinarian in the form of a one (1) year memorandum of understanding between the Department and the persons owning the livestock or any other species of animals;

(2) An authorized agent of the Board may inspect and monitor the application of the product and verify the proper handling, cleaning, and disinfection of equipment utilized in the application.

(c) Johne's (Paratuberculosis) vaccine is expressly prohibited in Oklahoma without prior approval of the Department. This approval may be obtained only after a written agreement is developed between the producer, attending veterinarian, and state regulatory officials. A plan of herd management, vaccination, and any restrictions shall be a part of this agreement.

(d) Each biological product manufactured, produced, distributed, sold, offered for sale, or used in Oklahoma or delivered for transportation or transported in intrastate or interstate commerce shall be registered with the Department on an annual basis.

(e) Each person registering biological products shall pay an annual registration fee of Two Hundred Dollars ($200.00) for each biological product registered.

(1) The Department may require the submission of the complete formula of any biological product.

(2) Trade secrets and formulations submitted with the registration shall be kept confidential.

(3) Autogenous biologics shall be registered individually by the specific microorganisms (seed) which make up the composition of the vaccine.

(f) If it appears to the Department that the composition of the biological product is adequate to warrant the proposed claims and if the biological product, its labeling, and other material required to be submitted comply with the requirements of this section, then the biological product shall be registered.

(g) Additional registration of a biological product shall not be required in the case of a biological product shipped from one location within Oklahoma to another location within Oklahoma if the location is operated by the same person.

(h) All biological product registrations shall expire on March 20 of each year but may be renewed by the Department. Any person who fails to renew a biological product by March 20 of each year shall pay a penalty of an additional Two Hundred Dollars ($200.00).

~~(i) Any biological product that contains any living organism and is produced pursuant to subsection (b) may be used with prior written notice to the Department. Notice shall be provided for each day the person intends to utilize the biological product and shall contain the name of the person prescribing the biological product, the specific location where the biological product will be used, and the reason for using the biological product.~~

~~(j)~~ (i) No person shall sell or offer for sale an unregistered biological product or an expired biological product.

~~(k)~~(j)The term "biological product" shall mean all viruses, serums, toxins (excluding substances that are selectively toxic to microorganisms, including antibiotics), or analogous products at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of livestock or any other species of animals and which act primarily through the direct stimulation, supplementation, enhancement, or modulation of the immune system or immune response. The term biological products includes but is not limited to vaccines, bacterins, allergens, antibodies, antitoxins, toxoids, immunostimulants, certain cytokines, antigenic or immunizing components of live organisms, and diagnostic components that are of natural or synthetic origin, or that are derived from synthesizing or altering various substances or components of substances such as microorganisms, genes or genetic sequences, carbohydrates, proteins, antigens, allergens, or antibodies. The term shall not include any product identified and regulated as a pesticide by the Department.

(1) A product's intended use shall be determined through an objective standard dependent upon factors such as representations, oral or written claims, packaging, labeling, or appearance.
(2) The term "analogous products" shall include the following:
(A) Substances, at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of livestock or any other species of animals and which are similar in function to biological products in that they act, or are intended to act, through the stimulation, supplementation, enhancement, or modulation of the immune system or immune response;
(B) Substances, at any stage of production, shipment, distribution, or sale, which are intended for use in the treatment of livestock or any other species of animals through the detection or measurement of antigens, antibodies, nucleic acids, or immunity; or
(C) Substances, at any stage of production, shipment, distribution, or sale, which resemble or are represented as biological products intended for use in the treatment of livestock or any other species of animals through appearance, packaging, labeling, claims (either oral or written), representations, or through any other means.

~~(l)~~(k) The term "treatment" shall mean the prevention, diagnosis, management, or cure of diseases of livestock or any other species of animals.
~~(m)~~(l) The term "unregistered biological product" shall mean a biological product that has not been registered with the Department or a biological product that has been previously registered with the Department but the registration has lapsed.
~~(n)~~(m) The term "expired biological product" shall mean a biological product which exceeds the expiration date established by the manufacturer.

SUBCHAPTER 9. LIVESTOCK SPECIAL SALES

PART 3. LIVESTOCK SPECIAL SALES

35:15-9-9. Submission of record sales [AMENDED]
(a) The permit holder may submit to the ~~Board~~ Department a record identifying each animal consigned on or before the fifteenth day of the month after the special sale. The record shall include the name, mailing address, and telephone number of the consignor, and the name, mailing address, and telephone number of the purchaser.
(b) A permit holder who submits records pursuant to the provisions of subsection (a) of this section shall not be required to comply with the provisions of paragraph 5 of OAC 35:15-9-8.

SUBCHAPTER 11. IMPORTATION OF ANIMALS

PART 1. GENERAL

35:15-11-1. General import and exportation requirements [AMENDED]
(a) All persons importing livestock, as defined in 2 O.S. § 6-150, shall have a certificate of veterinary inspection with the following exceptions:
(1) Livestock transported as part of a commuter herd with a copy of the commuter herd agreement;
(2) Livestock transported directly to an Oklahoma veterinarian for treatment if returned to the premises of origin within two (2) days following cessation of treatment;
(3) Livestock transported from a premises of origin in another state to an approved tagging site or approved livestock market and they are accompanied by an owner-shipper statement;
(4) Livestock transported from a premises of origin in another state directly to a slaughtering establishment and they are accompanied by an owner-shipper statement or a completed Drive-In document; or
(5) Livestock transported as a restricted movement accompanied by a VS form 1-27.
(6) Livestock being exported from Oklahoma shall meet the requirements of the state of destination. The buyer, seller, and transporter shall be equally responsible for ensuring that all requirements are met.
(b) The Commissioner of Agriculture or the State Veterinarian may impose pre-entry test requirements on any species if it becomes known that the threat of disease exists which could place the livestock industries of Oklahoma at risk or could become a public health hazard.
(c) Import requirements of this section may be in addition to import requirements for a species or disease found in this subchapter.

(d) 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 certificates of veterinary inspection (health certificate), permits, and the movement of livestock into this state.

PART 13. EQUINE PIROPLASMOSIS [REVOKED]

35:15-11-51. Purpose [REVOKED]

~~Equine Piroplasmosis is a parasitic infection of horses, donkeys, mules, and zebras. It can be spread either naturally by ticks or through contaminated needles, syringes, dental equipment, and surgical equipment. These rules allow the State Veterinarian to issue interstate stop movement orders or quarantines of Equine Piroplasmosis reactors. In managing any premises that houses negative, positive, or reactor equids, exposing a negative equid to the blood or blood products of a positive or reactor equid shall be avoided. Proper handling of infected needles, surgical instruments, dental equipment, blood or blood products collected from positive or reactive equids, or other blood contaminated fomites, including blood contaminated semen collected for artificial insemination is essential, as Equine Piroplasmosis may also be transmitted through these routes.~~

35:15-11-52. Definitions [REVOKED]

~~The following words and phrases shall have the following meanings:~~

~~**"Equine Piroplasmosis reactor"** means any Equidae that tests positive for Equine Piroplasmosis from either B. caballi or T. equi but has not been confirmed by NVSL.~~

~~**"Exposed"** means all Equidae in the same herd as a Prioplasmosis positive animal or had recent direct and sustained contact with a Piroplasmosis animal.~~

~~**"High risk premises"** means premises where transmission of Equine Piroplasmosis is known or suspected to have occurred or has the potential to occur, through either natural tick borne transmission or high risk management practices and as determined by the State Veterinarian.~~

~~**"Low risk premises"** means premises where transmission of Equine Piroplasmosis has not been demonstrated or suspected to have occurred and has a low potential to occur, through either natural tick borne transmission or management practices and as determine by the State Veterinarian risk.~~

~~**"Negative Equidae"** means Equidae that show a negative result to a competitive enzyme-linked immunosorbent assay (c-ELISA) test for Equine Piroplasmosis or have been classified negative by the designated epidemiologist, based on history, supplemental tests, or other epidemiological evidence.~~

~~**"Positive Equidae"** means Equidae that show a positive result to for Equine Piroplasmosis by the National Veterinary Services Laboratories (NVSL) on the complement fixation (CF) test or competitive enzyme-linked immunosorbent assay (c-ELISA) test.~~

~~**"Racetrack facility"** means a premises used to conduct live horse racing events and is not limited to facilities licensed by the Oklahoma Horse Racing Commission.~~

~~**"Suspect case"** means an Equidae with clinical signs consistent with Equine Piroplasmosis, a history of exposure, or an inconclusive test.~~

35:15-11-53. Testing for Equine Piroplasmosis [REVOKED]

~~(a) All racing Quarter horses, Paint horses, and Appaloosas entering a racetrack facility shall have proof of a negative Piroplasmosis test (T. equi) within the past twelve (12) months.~~

~~(b) All official samples collected from Equidae for Piroplasmosis testing shall be collected by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board.~~

~~(1) The State Veterinarian, a state or federal veterinarian, an authorized agent of the Board, or an accredited veterinarian acting under authority of the State Veterinarian may cause an official test to be conducted on any Equidae known or suspected to be infected with or exposed to Piroplasmosis.~~

~~(2) If the owner refuses or neglects to comply with the testing requirements, the Equidae shall be quarantined and the movement of any Equidae from the premises shall be prohibited.~~

~~(3) The State Veterinarian may provide and require supervision for collection of test samples submitted by an accredited veterinarian.~~

~~(4) Any person providing erroneous or fictitious information shall be in violation of these rules.~~

~~(5) Any person altering, defacing, or falsifying information on a test chart, permit, certificate of veterinary inspection, or any form associated with the Piroplasmosis program shall be in violation of these rules.~~

(c) All Equidae epidemiologically determined to have been exposed to a Piroplasmosis positive animal shall be quarantined and tested by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board.

(1) Test results for suspect cases and reactor Equidae shall be confirmed by NVSL.

(2) Positive results shall be confirmed by NVSL.

(3) Exposed Equidae that test negative shall be retested at least thirty (30) calendar days from last exposure to a Positive Equidae.

(4) Epidemiologic data may be considered in the testing requirements for Exposed Equidae and affected herds.

(d) Release of quarantine.

(1) No Equidae held under quarantine shall be moved or released until a written permit or quarantine release signed by an authorized agent has been executed.

(2) Exposed Equidae may be released from quarantine after obtaining a negative test a minimum of thirty (30) calendar days from the last exposure.

(3) Epidemiologic data may be considered in the release of the quarantine.

(e) Foals born to positive mares are considered exposed and shall be tested because Equine Piroplasmosis hemoparasites may be transmitted in utero or at parturition.

(1) Foals under six (6) months of age may carry maternal antibodies to infection but may not be infected. Therefore, seropositive foals without other evidence of infection via PCR or blood smears shall be retested after waning of maternal antibodies.

(2) Foals shall be kept in quarantine until weaned or separated from the mare and until tested negative for Equine Piroplasmosis (at a minimum of six (6) months of age) at NVSL.

35:15-11-54. Management and disposition of Positive Equidae [REVOKED]

(a) Any Equidae confirmed positive for Equine Piroplasmosis shall be officially identified by the Department or regulatory personnel acting under the authority of the State Veterinarian, unless already electronically identified.

(b) Options for managing Positive Equidae include quarantine, quarantine with treatment, export, and euthanasia. Conditions for quarantine shall be outlined in a compliance agreement established between the owner and the State Veterinarian. Standards for quarantine shall differ for high risk and low risk premises.

(c) Management of Positive Equidae shall be conducted under the direct supervision of the State Veterinarian.

(1) Quarantine on high risk premises:

(A) Positive Equidae shall be housed in a tick free facility on any premises approved by the State Veterinarian.

(B) If no tick free facility is available, the Positive Equidae shall be housed at a predetermined safe distance from other Equidae. The State Veterinarian shall determine the predetermined distance with the goal of reducing the risk of tick borne transmission and shall take into account tick species in the area, natural geographical barriers, seasonal variation, the potential role of wildlife in tick movement, and other factors.

(C) A tick free facility may be of any size but shall be surrounded by two (2) fences a minimum of thirty (30) feet apart, with the zone between the fences free of vegetation and animals.

(D) Prior to moving Positive Equidae into a facility, theEquidae, the facility, and the thirty (30) foot barrier zone shall be treated to eliminate ticks using an approved acaricide.

(i) Positive Equidae shall be maintained on a fourteen (14) to eighteen (18) day acaricide treatment interval to minimize tick infestations.

(ii) Acaricides used shall be labeled as effective against and approved for use on Equidae or on the environment (i.e., pasture, stall, soil, etc.).

(E) Unless approved by the State Veterinarian, only positive Equidae are allowed in the tick-free facility. Dogs, other domestic animals, or livestock shall not be allowed to enter the facility unless maintained on acaricide treatment and remain tick free at all times.

(F) Facility inspections shall be conducted pursuant to the following schedule:

(i) The State Veterinarian shall make at least two (2) unannounced inspections of the facility within the first sixty (60) calendar days of quarantine to ensure no unauthorized animals are moving to or from the facility, the thirty (30) foot zone is free of vegetation and animals, and the Positive Equidae are not tick infested.

(ii) During the first year of quarantine, premises shall be inspected at least quarterly, or more frequently as determined by the State Veterinarian, to assess compliance. At least one of these inspections shall be unannounced.

(iii) After the first year of quarantine, there shall be a minimum of two (2) intensive premises inspections per year for premises that repeatedly demonstrate complete compliance. These inspections may be scheduled or unannounced at the discretion of the State Veterinarian.
(iv) Frequency of inspections shall be increased in cases where the State Veterinarian has identified the potential for noncompliance.

(G) Working, exercising, or allowing other contact between Positive and Negative Equidae shall not be allowed except in the following circumstances:

(i) Any contact with other animals shall only occur on the quarantined premises.
(ii) Both Positive and Negative Equidae shall be treated with an approved acaricide not less than twenty four (24) hours and not more than fourteen (14) days prior to any contact.
(iii) Equidae shall not be left unattended in pastures. When acaricide treated Positive Equidae are not being ridden, they shall be placed in a trailer or kept a minimum of ten (10) feet from acaricide treated Negative Equidae.
(iv) Trailers used to transport Positive Equidae within the quarantined premises shall be treated with acaricide after each use.
(v) Premises where Positive and Negative Equidae have any contact shall be subject to more frequent inspections by the State Veterinarian.

(2) Quarantine on low risk premises:

(A) Positive Equidae shall be housed in separate pens or pastures away from Negative Equidae.

(i) There shall be a minimum ten (10) foot separation maintained between Positive Equidae and Negative Equidae on the same or adjacent low risk premises, with vegetation kept no higher than four (4) inches tall in the intervening space.
(ii) If the ten (10) foot separation is not possible due to facility size or other limiting factors, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine if sufficient space and barriers are available to establish and maintain the necessary isolation of Positive Equidae.

(B) Inspections shall occur on the same schedule as for Positive Equidae quarantined on high risk premises.

(3) Quarantine and enrollment in an approved Equine Piroplasmosis treatment research program shall be available upon the approval of the State Veterinarian.

(A) Any associated costs for an approved Equine Piroplasmosis treatment research program shall be the owner's responsibility.
(B) Management of Positive Equidae enrolled in an approved Equine Piroplasmosis treatment program shall be in accordance with the standards specified in this section.
(C) If an Equidae completes an approved treatment research program, effectively demonstrates freedom from the organism, and no longer meets the confirmed positive case definition for Equine Piroplasmosis, the Equidae may be eligible for quarantine release at the discretion of the State Veterinarian.

(4) It shall be the owner's responsibility to coordinate with authorities in the destination country for the export of an Equine Piroplasmosis Positive Equidae and to arrange for transportation. The Positive Equidae shall be transported to the export facility under an APHIS movement permit and official seal.

(5) Euthanasia and disposal:

(A) Both euthanasia and disposal shall be documented and conducted pursuant to the supervision of the State Veterinarian.
(B) Federal and State indemnity shall not be available.

35:15-11-55. Release and removal options for Exposed Equidae [REVOKED]

(a) On high risk premises where Positive Equidae remain,equids Exposed Equidae may be released from quarantine and removed from the premises under the following conditions:

(1) NVSL tests the Exposed Equidae and determines they are negative.
(2) The Negative Equidae are treated for ticks using an approved acaricide.
(3) Exposed Equidae are confined to a negative equine facility (e.g., pen, paddock, stall):

(A) The negative facility shall contain no vegetation and shall have been treated with an approved acaricide;
(B) The facility is surrounded by two fences a minimum of thirty (30) feet apart with a zone free of vegetation between the fences or barriers;

(C) The thirty (30) foot zone around the facility is kept free of vegetation and treated with an acaricide approved for treating facilities to eliminate ticks. Treatments shall be repeated as often as necessary according to label instructions to maintain a zone with no ticks. If thirty (30) feet of separation is not possible, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine whether sufficient space and barriers are available for isolating the Negative Equidae; and

(D) No equipment, tack, hay, feed, bedding, manure, clothing, or other items have been brought into the negative facility from any Positive Equidae premises.

(4) After the animals are confined, they are retreated with an acaricide at fourteen (14) to eighteen (18) day intervals.

(5) The Negative Equidae are inspected for ticks ("scratched") and retested by the NVSL not less than thirty (30) days following entry into the negative equine facility. Exposed Equidae that are negative on the retest and free of ticks may be released from the quarantine if treated with an approved acaricide and removed from the premises while still wet with the acaricide.

(6) Dogs, other domestic animals, or livestock that have access to a negative equine facility shall be treated to prevent tick transmission to the facility.

(b) After all Positive Equidae have been removed from high risk premises, the remaining Equidae may be released from quarantine through the following process based on the presence of vegetation on the premises:

(1) Premises with no vegetation:

(A) After all Positive Equidae leave the premises, theNegative Equidae shall be treated for ticks using an approved acaricide.

(B) Treat the premises with an approved acaricide.

(C) Retest the negative Exposed Equidae at NVSL no less than thirty (30) days after removing the Positive Equidae.

(D) If the Equidae are negative on the retest, the quarantine may be released by the State Veterinarian.

(2) Premises with vegetation:

(A) After all Positive Equidae leave the premises, theNegative Equidae shall be treated for ticks using an approved acaricide.

(B) The vegetation shall be mowed to less than four (4) inches, residual grass clippings shall be removed, and the premises shall be treated with a registered acaricide effective against ticks and approved for grazing pastures. While spraying pastures, animals shall be kept in stalls, sheds, trailers, or other areas until the forage is safe for ingestion, per acaricide label directions.

(C) The Negative Exposed Equidae shall be retested by NVSL no less than thirty (30) days after removing Positive Equidae.

(D) If the Equidae are negative on the retest, the quarantine may be released by the State Veterinarian.

(E) If premises are too large to treat all vegetation, the Equidae may be kept on the premises under quarantine until they test negative at least twelve (12) months after removing the Positive Equidae. During that twelve (12) month period, the Equidae may attend functions off premises if they test negative within thirty (30) days prior to the function and are treated with an approved acaricide within seventy two (72) hours of movement. The Equidae shall be returned to the premises within ten (10) days of their departure.

(F) Dates of treatment shall be recorded on a treatment record maintained by the owner.

(G) The State Veterinarian shall review records regularly for the duration of the quarantine period.

(c) Exposed Equidae on low risk premises may be released from quarantine order under the following conditions:

(1) NVSL tests the Exposed Equidae and finds them negative for Equine Piroplasmosis.

(2) Negative Equidae on the premises or adjacent premises are separated from Positive Equidae by a minimum of ten (10) feet, with vegetation kept below four (4) inches tall in the intervening space.

(3) If ten (10) feet of separation is not possible due to facility size or other limiting factors, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine whether sufficient space is available to isolate Positive Equidae.

(4) At the time they are tested, all Equidae shall undergo an initial treatment for ticks with an approved acaricide.

(5) Negative Equidae shall be retreated fourteen (14) to eighteen (18) days following initial treatment, according to product label instructions, and kept free of ticks until retested.

(6) Negative Equidae shall be inspected for ticks (scratched) and retested negative by NVSL not less than thirty (30) days following the initial treatment and separation from Positive Equidae.

~~(7) If Exposed Equidae are removed from the premises within thirty (30) days of a verified negative status (i.e., the releasing test) and within fourteen (14) days of a treatment, no additional testing or treatment shall be required.~~
~~(8) If the State Veterinarian identifies possible pasture contamination after removal of a Positive Equidae, the following steps shall be taken for twelve (12) months after removal:~~
~~(A) Apply an acaricide treatment each time the Negative Equidae is moved from the premises;~~
~~(B) Within thirty (30) days prior to movement, retest theNegative Exposed Equidae, and confirm their negative status; and~~
~~(C) Conduct a final negative test at the end of the twelve (12) month period for all remaining Negative Exposed Equidae.~~
~~(9) If a Negative Exposed Equidae on a low risk premises subsequently tests positive for Equine Piroplasmosis, the classification of the premises shall be reevaluated by the State Veterinarian. Epidemiological evidence of disease transmission shall elevate the classification of the premises to high risk.~~

35:15-11-56. Long term maintenance of Negative Exposed Equidae [REVOKED]
~~(a) On premises where Negative and Positive Equidae remain long term, management practices shall minimize the risk of Equine Piroplasmosis transmission.~~
~~(b) Long term maintenance of Negative Exposed Equidae on high risk premises that have Positive Equidae shall meet the following:~~
~~(1) The owner shall complete all requirements found in these rules, except instead of confining the Negative Equidae to a prescribed facility, thePositive Equidae shall be confined to an enclosure with the same restrictions and requirements.~~
~~(2) The Negative Equidae shall be retested for Equine Piroplasmosis annually and within thirty (30) days prior to any movement from the premises or change of ownership.~~
~~(3) Immediately prior to moving any Negative Equidae, the State Veterinarian shall inspect (scratch) the Negative Equidae for ticks and require treatment of the Equidae with an approved acaricide. The animals shall not be moved unless the inspection reveals no ticks and the animals move off the premises while still wet with acaricide.~~
~~(c) Long term maintenance of Negative Exposed Equidae on low risk premises that have Positive Equidae shall comply with the following:~~
~~(1) Negative and Positive Equidae shall be kept separated.~~
~~(2) Negative Equidae shall be retested and found negative within thirty (30) days prior to movement off the premises.~~
~~(3) The owner shall treat Negative Equidae with an approved acaricide not less than twenty four (24) hours and not more than fourteen (14) days prior to moving them from the premises.~~
~~(4) Dates of acaricide treatment shall recorded on a treatment record maintained by the owner.~~
~~(5) Negative Exposed Equidae shall receive annual retests as long as Positive Equidae remain on the premises.~~
~~(6) If a Negative Exposed Equidae on a low risk premises subsequently tests positive for Equine Piroplasmosis, the classification of the premises shall be reevaluated by the State Veterinarian. Epidemiological evidence of disease transmission shall elevate the classification of the premises to high risk.~~

SUBCHAPTER 13. TESTING AND INSPECTION FOR DISEASE AND RELEASE OF LIVESTOCK AT AUCTION MARKETS

35:15-13-3. General requirements for a livestock auction market [AMENDED]
(a) Any person owning, operating, conducting, or maintaining a livestock auction market shall be required to employ a livestock auction market veterinarian for auctions selling cattle, horses, swine, or other species as determined by the state veterinarian.
(b) The buyer's invoice shall include the buyer's name and address and a description of the livestock as to age, color, and sex.
(c) The seller's invoice shall include the seller's name and address and a description of the livestock as to age, color, and sex.
(d) The livestock auction market veterinarian or sale company shall not be responsible for results of any tests that are conducted properly or for any reactor animals or responder animals found in the market.

(e) Refusal or failure to comply with Department rules shall be just cause for the revocation or suspension of the livestock auction market license.
(f) No person owning, operating, conducting, or maintaining a livestock auction market shall allow any of the following animals to leave the livestock auction market unless it is individually identified by an official identification with an exception for weak cattle or cattle that pose a greater than normal risk of being injured or injuring a person:
(1) All beef cattle eighteen (18) months of age or older, except terminal fed steers and heifers, going directly to a feedlot or slaughter which will not be reintroduced into the breeding herd;
(2) All dairy cattle;
(3) All "M" branded cattle including any commingled cattle, and
(4) All roping, exhibition, event, and rodeo cattle.
(g) Weak cattle or cattle that pose a greater than normal risk of being injured or injuring a person may be sold with a back tag and slaughter only tag to be transported directly to slaughter.
(h) The owner or operator of the livestock auction market shall keep records of each animal consigned or delivered to the livestock auction market for a period of five (5) years for disease traceback purposes, including but not limited to, the following:
(1) "Drive-in" or any other documents identifying the backtag, owner's name and address, and license tag of mode of transportation;
(2) Any records kept pursuant to the Livestock Auction Market Act;
(3) Records of any official identification applied to the animal or already existing with the animal;
(4) Any records available regarding the purchaser of the animals; and
(5) Records of official identification that are sufficiently legible and accurate to facilitate successful tracebacks.
(i) Each livestock auction market shall sign and have on record with the Department the most current livestock market contract for each of the species sold at the market. Markets shall sell onlyspecies approved to be handled, sold, or exchanged pursuant to their livestock auction market license.
(j) The livestock auction market shall make the above records available to Department personnel when requested on non-sale days. In an emergency, records may be requested and shall be made available to Department personnel regardless of sale schedule.
(i) Each livestock auction market shall sign and have on record with the Department the most current livestock market contract for each of the species sold at the market.
(k) Routine Livestock Auction Markets shall not be scheduled on Sundays. Sunday sales shall require special permission of the State Veterinarian.

35:15-13-6. Movement of livestock through livestock auction markets [AMENDED]
(a) All certificates of veterinary inspection, permits, and other documents, including out-of-state documents accompanying livestock into Oklahoma livestock auction markets, that are incomplete or have been altered in any way are void and shall not be accepted. This shall include documents that are incomplete as to official identification numbers and descriptions of the animals they represent. To be accurate and acceptable, the prefix of each official identification number shall be recorded.
(b) All livestock shipped or exported from the State of Oklahoma shall meet the state of destination importation requirements.
(c) ~~Dairy cattle or Mexican cattle~~Cattle that are required to be tuberculosis tested after change of ownership that are not held at the livestock auction for testing shall be consigned to the purchaser's accredited veterinarian of choice accompanied by a VS 1-27 form to verify the arrival of the animal for testing.
(d) Restricted cattle shall be tagged with a slaughter only tag except in instances where the cattle have been tested for the disease of concern.
(e) Cattle tagged with a Slaughter Only Tag shall not be diverted from slaughter channels and shall be transported to an approved livestock facility within seven (7) days of sale.
(f) It shall be a violation of the Oklahoma Administrative Code to remove a Slaughter Only Tag from an animal.
(g) It shall be a violation of the Oklahoma Administrative Code to present feral swine to a livestock auction market or to sell feral swine at livestock auction markets.

35:15-13-7. Specific approval of livestock auction markets [AMENDED]
(a) No livestock auction market shall be specifically approved until proper application is made and a determination is made by the State Veterinarian that Department regulations and standards are met.
(b) All animals received at the livestock auction market shall be considered in interstate commerce and be handled in accordance with interstate regulations.

(c) All cattle, bison, horses, swine, or other species, as determined by the State Veterinarian, shall be visually inspected by the livestock auction market veterinarian prior to sale for diseased conditions such as cattle scab, sheep scab, Actinomycosis (lump jaw), Carcinomas (cancer eye), Infectious Rhinitis (bull nose) or any other infectious, contagious, or communicable disease.
(d) Any animal determined to be diseased by the livestock auction market veterinarian shall be sold direct to slaughter or quarantined for treatment pursuant to the judgment of the livestock auction market veterinarian.
(e) Each market shall furnish and maintain in good repair sufficient equipment suitable for restraining animals for careful inspection, testing, tagging, branding, and other treatments and procedures ordinarily required in providing livestock sanitary service at markets. The equipment shall be covered or housed so that necessary work can take place during inclement weather.
(f) The appointment and termination of the livestock auction market veterinarian by the livestock auction market is subject to approval of both state and federal officials.
(g) Failure or neglect to perform any of the functions in this section shall be cause for withdrawal of the approval.
(h) Each livestock auction market shall sign and have on record with the Board the most current livestock market contract for each of the species sold at the market. Markets shall sell only species approved to be handled, sold, or exchanged pursuant to their livestock auction market license.
(i) Routine Livestock Auction Markets shall not be scheduled on Sundays. Sunday sales shall require special permission of the Board of Agriculture or the State Veterinarian.

SUBCHAPTER 15. EQUINE INFECTIOUS ANEMIA (EIA)

PART 1. GENERAL PROVISIONS

35:15-15-4. Definitions [AMENDED]

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

"Adjacent herds" means a group or groups of Equidae sharing common pasture or having any direct contact with an affected herd or positive animal and includes any herd containing an animal purchased from or exchanged with the affected herd. Herds separated by a distance of less than two hundred (200) yards are adjacent herds.

"Affected herd" means a herd of Equidae that contains or has contained one or more animals infected with equine infectious anemia and that has not passed all tests required for release from quarantine.

"Approved laboratory" means a laboratory approved prior to operating by the State Veterinarian and the Federal Area Veterinarian In Charge to conduct an official test for equine infectious anemia.

"Approved market" means a stockyard, livestock market, or other premises approved by the Board, where horses or other Equidae are assembled for sale purposes.

~~**"Direct shipment to slaughter"** means the shipment of equine infectious anemia positive or exposed Equidae from the premises of origin or a quarantined holding facility to a slaughter establishment operated under state or federal inspection without diversion of any type.~~

"Equidae" means a family of perissodactyl ungulate mammals containing a single genus Equus, which includes but is not limited to horses, asses, jacks, jennies, hennies, mules, donkeys, burros, ponies, and zebras.

"Equine infectious anemia (EIA)" means a blood borne viral infection of Equidae.

"Exposed animals" means Equidae that have been in contact with, associated with, or adjacent to animals known to be equine infectious anemia positive. ~~Untested animals sold for slaughter at approved markets shall be considered exposed.~~

"Herd" means one or more Equidae maintained on common ground and includes all Equidae under single or multiple ownership or supervision that are geographically separated but can have an interchange or movement without regard to health status.

"Herd plan" means a herd management, movement, and testing agreement designed by a state or federal veterinarian and a herd owner to control and eradicate equine infectious anemia from an affected, adjacent, or exposed herd of Equidae.

"Livestock dealer" means any person engaged in the business of buying or selling Equidae in commerce or any person registered and bonded under the provisions of the Federal Packers and Stockyards Act of 1921, as amended, who buys Equidae. The term livestock dealer shall not include a farmer or rancher who buys or sells Equidae in the ordinary course of their farming or ranching operation, unless they are registered and bonded under the Federal Packers and Stockyards Act of 1921, as amended.

"Market veterinarian" means any accredited veterinarian who has entered into a written agreement to work a specified market.

"Negative animals" means Equidae that show a negative response to an official test for equine infectious anemia or have been classified negative by the designated epidemiologist, based on history, supplemental tests, or other epidemiological evidence.

"Extended Equine Certificate of Veterinary Inspection" means an electronic document issued by an accredited veterinarian which allows a horse to be transported for up to six (6) months between states with an Extended Equine Certificate of Veterinary Inspection agreement.

"Official in charge" means any manager, superintendent, secretary, or other person responsible for an equine exhibition.

"Official test" means the agar gel immunodiffusion (AGID) or "Coggins" test, the enzyme-linked immunosorbent assay (ELISA) test, or any other diagnostic test approved by the State Veterinarian.

"Official test record" means an original yellow copy of the VS Form 10-11 or a clear and legible printout of an electronic EIA test chart.

"Owner" means any person with the legal right of possession or having control over any Equidae, and shall include but not be limited to agents, caretakers, and other persons acting on behalf of that person.

"Permit" means an official document that shall accompany positive or exposed Equidae ~~to a quarantined holding facility, an approved slaughter establishment, or approved quarantined premise~~. The permit shall be issued by the Board, a representative of USDA, or an accredited veterinarian. The permit shall list the name, breed, any registration number, any tattoo, any brand, sex, age, color, and markings sufficient to positively identify each Equidae listed on the form and shall also include the owner's name and address, origin and destination locations, and the purpose of the movement.

"Positive" means any Equidae which discloses a positive reaction to an official test for equine infectious anemia.

~~**"Quarantined holding facility"** means a quarantined premise approved by the Board to handle positive or exposed Equidae for a period of not more than thirty (30) days prior to direct shipment to an approved slaughter establishment.~~

"State or federal veterinarian" means any veterinarian employed by a state or federal regulatory agency.

"Test eligible" means all Equidae other than foals less than six (6) months of age accompanied by their negative tested dam.

"VS Form 10-11" means the official USDA Equine Infectious Anemia Laboratory Test form labeled VS Form 10-11 or an approved electronic version.

PART 3. PROCEDURES

35:15-15-33. Submission of sample and test charts [AMENDED]

(a) All blood samples submitted for official tests shall be accompanied by a properly completed VS Form 10-11 ~~Equine Infectious Anemia Laboratory Test~~or a USDA approved EIA test chart that ~~listing~~lists the following:

(1) Description of the Equidae, including the age, breed, color, sex, animal's name, any registration number, all distinctive markings, including color patterns, brands, tattoos, scars, or blemishes. In the absence of any distinctive color markings or visible permanent identifications, the Equidae shall be identified by indicating the location of all hair whorls, vortices, or cowlicks with an "X" on the illustration provided on the VS Form 10-11.

(2) Test charts shall include a drawing or a photograph with three views (head, left side, right side).

(3) Owner's name, address, and telephone number.

~~(3)~~(4) The animal's home premise and county.

~~(4)~~(5) The name, address, and telephone number of the authorized person collecting the test sample.

~~(5)~~(6) The laboratory and the person conducting the test.

(b) All blood samples taken from the animal listed on the VS Form 10-11 shall be submitted in approved tubes and the tubes shall be identified with the same animal name, registration number, tattoo, or other identification as recorded on the VS Form 10-11.

(c) Samples submitted without proper identification and proper test charts shall not be classified.

(d) Authorized personnel shall use only one chart or VS Form 10-11 for each Equidae to be tested.

35:15-15-34. Requirements for approved EIA testing laboratories [AMENDED]

(a) No person shall operate an EIA testing laboratory without first obtaining approval from the Board.

(b) Conditions of approval.

(1) Submit a complete application to the office of the State Veterinarian.

(2) Upon receipt of an application, the facility shall be inspected by an authorized agent of the USDA.
(3) A report of the inspection shall be submitted to the State Veterinarian and identify the EIA testing laboratory's compliance with the minimum standards for facilities, equipment, and personnel.
(4) The applicant shall agree in writing to operate the laboratory in conformity with the Department rules and the requirements of the USDA and shall continually meet all requirements during operation of the laboratory.
(5) A determination by the Department that an additional EIA laboratory is necessary in the area.

(c) Operating requirements.
(1) All personnel conducting an official test at an approved laboratory shall receive training prescribed by the National Veterinary Services Laboratories (NVSL).
(2) Approved laboratories shall use USDA licensed ELISA test kits and follow standard test protocols prescribed by NVSL.
(3) Approved laboratories shall maintain a work log clearly identifying each individual sample and test results.
(4) Approved laboratories shall maintain a work log and a file of all submission forms for a period of not less than two (2) years.
(5) All approved laboratories shall report all positive results to an official test for EIA to the State Veterinarian's office within twenty four (24) hours.
(6) A copy of all test charts for positive Equidae shall be sent to the State Veterinarian's office within seventy two (72) hours.
(7) ~~Negative results shall be reported to the office of the State Veterinarian on a monthly basis.~~
~~(8)~~ Approved laboratories shall not test samples until an officially completed test chart is received.

(d) Inspections, proficiency tests, and licenses.
(1) The USDA APHIS VS shall randomly and without prior notification collect samples and inspect the facilities and records of all EIA laboratories in Oklahoma at least one (1) time per year.
(2) All records required to be maintained by approved laboratories shall be open to inspection by state or federal employees during normal business hours.
(3) All approved laboratories shall pass annual proficiency test requirements administered by the NVSL.
~~(4) All approved laboratories shall pass any additional proficiency test requirements administered by the Board.~~
~~(5) The Board shall charge a fee to the approved laboratory for administering each additional proficiency test in the amount of Fifty Dollars ($50.00).~~
(6) Each approved laboratory shall obtain a license on an annual basis.
(A) The annual license fee shall be Two Hundred Fifty Dollars ($250.00).
(B) The annual license shall expire on January 31 of each calendar year.
(C) The renewal license application shall be submitted no later than January 31 of each calendar year.
(D) A renewal application received or postmarked after January 31 shall be in violation of these rules.
(E) Failure to renew may result in disapproval of the laboratory.
(F) A fee waiver may be granted to an EIA laboratory at a university or state agency.

(e) An EIA laboratory may have its approval cancelled if the ~~Board~~Department finds that the laboratory has failed to meet the requirements or has falsified records or reports.
(f) Any action taken by the ~~Board~~Department to cancel laboratory approval shall conform to the Administrative Procedures Act.
(g) The Department may deny the application of any EIA laboratory if it fails to meet any criteria required by the Department.
(h) Approved laboratories shall only perform the ELISA test.
(i) The Department may at its discretion in limited and approved circumstances grant approved laboratories the ability to perform the AGID test for equine ~~being exported from Oklahoma to a foreign country or for horses not residing in Oklahoma~~. The limited exception shall be detailed in a written agreement between the Department and the approved laboratory.
(j) Any approved EIA laboratory shall resubmit all application information for approval by the Department upon a change in ownership of the facility or a change in location of the facility.

35:15-15-36. Classification of Equidae tested [AMENDED]

(a) All Equidae tested for EIA pursuant to an official test shall be classified as negative or positive.
(b) Positive Equidae and retests.
(1) A positive is any Equidae which discloses a positive reaction to an official test.
(2) Equidae classified as positive may be retested prior to branding upon the owner's written request to the State Veterinarian no more than fifteen (15) days following the date of the original test.

(3) All retest samples shall be collected by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board and submitted to the ~~Oklahoma Department of Agriculture, Food, and Forestry Laboratory Services~~National Veterinary Services Laboratory or an approved laboratory as designated by the State Veterinarian.
(4) The owner shall provide documentation verifying the equine tested is the same animal identified as positive on the original test document.
(5) All positive Equidae shall be held in isolation and under quarantine until the retest results are received.
(6) All other Equidae on the premise shall be held under quarantine until the retest results are received.
(7) Retest results from the ~~Oklahoma Department of Agriculture, Food, and Forestry Laboratory Services~~National Veterinary Services Laboratory or an approved laboratory designated by the State Veterinarian shall be the official retest results. Results from other approved laboratories shall not be official when conducted as retests of positive animals.

(c) All Equidae that show a negative response to an official test shall be classified negative by the approved laboratory.
(d) The designated epidemiologist may deviate from the positive or negative classification so long as the reasons to do so are documented.

35:15-15-38. Identification of positive Equidae [AMENDED]

(a) Any Equidae with a positive result to an official test for EIA shall be permanently identified by branding with a "73A" on the left shoulder and an implant of an official microchip no more than thirty (30) days after the date of the official test.
(b) The brand shall be clearly visible and permanently applied by an authorized agent of the Board using a hot iron brand or freeze brand marking no less than two (2) inches high.
(c) Any Equidae destroyed prior to branding or microchipping shall be described in a written statement by the accredited veterinarian or authorized agent certifying the destruction.
(d) The certification shall be submitted to the State Veterinarian's office within ten (10) days of the date the animal is destroyed.
(e) It shall be a violation of these rules for any person to conceal, alter, or remove the "73A" brand or official microchip on any positive animal.

35:15-15-39. Quarantines [AMENDED]

(a) Any Equidae testing positive to an official test shall be quarantined to the premise of origin or other approved ~~premise~~premises until natural death~~;~~or disposition by euthanasia ~~or slaughter, or movement to a quarantined holding facility~~.
(b) The quarantine shall include the positive Equidae, all other Equidae on the premise, and all Equidae epidemiologically determined to have been exposed to an EIA positive animal.
(c) The owner shall maintain isolation of all positive Equidae on an affected premise a minimum of two hundred (200) yards from all other negative Equidae and Equidae of unknown status on adjacent premises.
(d) In addition to a quarantine, the owner may enter into a herd plan for an affected herd that specifies testing and movement details, in addition to any exceptions to the specifications of the quarantine.
(e) The owner of an adjacent or exposed herd may enter into a herd plan in addition to or in lieu of a quarantine, pursuant to an agreement with the State Veterinarian.
(f) ~~The issuance of a quarantine may be waived if the Board or the State Veterinarian enters into a formal memorandum of understanding with the owner that controls the movement of animals and the disease condition.~~
~~(g)~~ Release of quarantine.

(1) No Equidae held under quarantine shall be moved or released ~~until~~without a ~~written~~ permit or quarantine release ~~signed~~issued by an authorized agent ~~has been executed.~~
(2) The EIA quarantine may be released by an authorized agent after all quarantined Equidae in the affected herd ~~test negative to an official test conducted at the Oklahoma Department of Agriculture, Food, and Forestry no less than sixty (60) days nor more than one hundred twenty (120) days following the identification and removal of the last EIA positive animal~~ or the specifications of the quarantine and herd plan have been met pursuant to agreement of the State Veterinarian.
(3) The EIA quarantine on exposed, contact, or adjacent herds may be released by an authorized agent after all quarantined Equidae have met the testing requirements in this part or the specifications of the quarantine and herd plan have been met pursuant to agreement of the State Veterinarian.
(4) Epidemiologic data ~~may~~shall be considered in the release of the quarantine.

35:15-15-42. Movement of positive and exposed animals [AMENDED]

(a) All positive and exposed Equidae shall be accompanied by a permit when moved from any quarantined premises.
(b) ~~All movement of positive or exposed Equidae shall be direct to an approved slaughter facility, to a quarantined holding facility prior to movement to an approved slaughter facility, or to a research facility approved by the State Veterinarian.~~
~~(c)~~ An owner who intends to change the location of positive or exposed Equidae to an alternate quarantined premise shall request approval ~~at least thirty (30) days in advance~~ and shall only move the animal following an epidemiological investigation by a state or federal veterinarian.
~~(d)~~(c) No diversion from the destination identified on the permit is allowed.
~~(e)~~(d) If a change in destination is necessary, a new permit shall be issued.

35:15-15-43. Requirements for quarantined holding facilities [REVOKED]

~~(a) Any licensed livestock dealer desiring to operate an equine quarantined holding facility shall file an application for approval of the facility on forms provided by the Board prior to operation.~~
~~(b) The quarantined holding facility shall isolate or confine equine testing positive to an official EIA test and exposed Equidae at least four hundred forty (440) yards from all other Equidae at all times.~~
~~(c) The quarantined holding facility shall be inspected by the Board prior to approval.~~
~~(d) Failure to maintain animals in confinement and isolation at least four hundred forty (440) yards at a quarantined holding facility from all other Equidae at all times shall be a violation of these rules.~~
~~(e) Animals held in a quarantined holding facility shall be shipped directly to an approved slaughter facility without diversion and shall not go through a market prior to shipment to slaughter.~~
~~(f) All Equidae entering or leaving a quarantined holding facility shall be accompanied by a permit.~~

PART 5. CHANGE OF OWNERSHIP OF EQUIDAE

35:15-15-51. Testing requirements for change of ownership [AMENDED]

(a) All test eligible Equidae sold, bartered, traded, or offered for sale within Oklahoma shall be accompanied by a record of a negative official test for EIA conducted at an approved laboratory within the previous twelve (12) months and naming the seller as the Equidae's owner.
(b) The record shall include the name of the laboratory, ~~case~~test accession number, and the date of the official test.
(c) A copy of a VS Form 10-11 shall not be considered an official record of test.
(d) Printed versions of electronic test charts shall be clear and legible. Printed versions that do not meet the requirements shall be considered non-official and the equid shall be re-tested.
(e) On all private sales, trades, barters, or any sale other than through an approved market, the seller shall be solely responsible for meeting EIA testing requirements prior to sale.

35:15-15-52. Intrastate movement [REVOKED]

~~Positive or exposed Equidae shall not be moved intrastate unless accompanied by a permit.~~

PART 7. REQUIREMENTS FOR APPROVED MARKETS

35:15-15-71. Movement of Equidae through approved markets [AMENDED]

(a) All test eligible Equidae offered for sale or sold at any market shall meet one of the following requirements:
(1) Be accompanied by a record of an official negative test for EIA conducted by an approved laboratory within twelve (12) months of the date of the sale. If the market veterinarian is unable to verify the authenticity of the test record, the market veterinarian shall complete a new test chart and test the Equid for EIA.
(2) Have a blood sample collected by an accredited veterinarian or authorized agent of the Board at the market and obtain official negative test results for EIA from an approved laboratory before the animal leaves the market.
(3) Have a blood sample collected by an accredited veterinarian or authorized agent of the Board at the market and be quarantined to the market or to an Oklahoma premise until negative results are received from an approved laboratory.
(b) A copy of a VS Form 10-11 shall not be considered an official test record.
(c) All Equidae consigned to an approved market shall be released by the market veterinarian to meet the requirements of this subchapter and the state of destination.
(d) Known positive or exposed Equidae shall not be consigned for sale at approved markets.

(e) Equidae found to be positive or exposed through testing conducted at an approved market shall be maintained in quarantine pens, isolated as far as possible from all other Equidae in the sale facility, and the quarantine pen or pens shall be clearly identified, by sign or paint, with the word "Quarantined."

PART 9. EQUINE EXHIBITIONS

35:15-15-91. Requirements of Equidae entering equine exhibitions [AMENDED]

(a) All Equidae moving within the state to equine exhibitions, including but not limited to, fairs, livestock shows, breed association shows, rodeos, racetracks, or other equine gatherings shall be accompanied by a record of a negative official test for EIA conducted within the previous twelve (12) months. The official test shall be conducted by an approved laboratory and the name of the laboratory, the ~~case~~test accession number, and the date of the test shall appear on the official test record.

(b) The official in charge shall be responsible for verifying that all Equidae entering an equine exhibition meet all recordation requirements.

(1) An official in charge of an equine exhibition shall not be held responsible for recording or accepting falsified or erroneous information provided by an owner.

(2) Any person providing erroneous or fictitious information shall be in violation of these rules.

(c) Any official in charge who knowingly, negligently, or willfully allows an untested or positive animal to enter an equine exhibition shall be in violation of these rules and the official in charge and the owner of the positive or untested animal shall be equally and individually in violation of these rules.

SUBCHAPTER 17. BOVINE AND BISON BRUCELLOSIS

PART 1. DEFINITIONS AND GENERAL PROVISIONS

35:15-17-3. Identification of vaccinates [AMENDED]

Brucellosis vaccinates may be calfhood vaccinated animals or adult vaccinated animals.

(1) Calfhood vaccinated animals are to be permanently identified as vaccinates by tattoo and by official ~~vaccination~~ eartag. Brands, registration tattoos, or other official identification may be used in lieu of official vaccination eartag. For Brucella abortus Strain RB51 vaccinates, the tattoo will include the U.S. Registered Shield and "V", which will be preceded by a letter "R" and followed by a number corresponding to the last digit of the year in which the vaccination was done. Official ~~vaccination eartags and tattoo~~tattoos shall be applied to the right ear. ~~The eartag will include the state prefix and a "V," "S," "T," "U" or "W" followed by two (2) letters and four (4) numbers officially identifying the vaccinated animal.~~

(2) Adult vaccinated animals are to be permanently identified as vaccinates by tattoo and by official ~~vaccination~~ eartag. For Brucella abortus Strain RB51 vaccinates, the tattoo will include the U.S. Registered Shield and "V", which shall be preceded by the letter "A" and followed by a number corresponding to the last digit of the year in which the vaccination was performed. The accompanying VS Form 4-26 (Calfhood Vaccination Record) should be clearly marked "Adult Vaccination."

SUBCHAPTER 18. ~~SUBCHAPTER 18.~~ EQUINE PIROPLASMOSIS [NEW]

35:15-18-1. Purpose [NEW]

Equine Piroplasmosis is a parasitic infection of horses, donkeys, mules, and zebras. It can be spread either naturally by ticks or through contaminated needles, syringes, dental equipment, and surgical equipment. These rules allow the State Veterinarian to issue stop movement orders or quarantines of Equine Piroplasmosis reactors. In managing any premises that houses negative, positive, or reactor equids, exposing a negative equid to the blood or blood products of a positive or reactor equid shall be avoided. Proper handling of infected needles, surgical instruments, dental equipment, blood, or blood products collected from positive or reactive equids, or other blood contaminated fomites, including blood contaminated semen collected for artificial insemination is essential, as Equine Piroplasmosis may also be transmitted through these routes.

35:15-18-2. Definitions [NEW]

The following words and phrases shall have the following meanings:

"Equine Piroplasmosis reactor" means any Equidae that tests positive for Equine Piroplasmosis from either B. caballi or T. equi but has not been confirmed by NVSL.

"Exposed" means all Equidae in the same herd as a Piroplasmosis positive animal or had recent direct and sustained contact with a Piroplasmosis animal.

"High risk premises" means premises where transmission of Equine Piroplasmosis is known or suspected to have occurred or has the potential to occur, through either natural tick borne transmission or high risk management practices and as determined by the State Veterinarian.

"Low risk premises" means premises where transmission of Equine Piroplasmosis has not been demonstrated or suspected to have occurred and has a low potential to occur, through either natural tick borne transmission or management practices and as determine by the State Veterinarian.

"Negative Equidae" means Equidae that show a negative result to a competitive enzyme-linked immunosorbent assay (c-ELISA) test for Equine Piroplasmosis or have been classified negative by the designated epidemiologist, based on history, supplemental tests, or other epidemiological evidence.

"Positive Equidae" means Equidae that show a positive result to for Equine Piroplasmosis by the National Veterinary Services Laboratories (NVSL) on the complement fixation (CF) test or competitive enzyme-linked immunosorbent assay (c-ELISA) test.

"Racetrack facility" means a premises used to conduct live horse racing events and is not limited to facilities licensed by the Oklahoma Horse Racing Commission.

"Suspect case" means an Equidae with clinical signs consistent with Equine Piroplasmosis, a history of exposure, or a non-negative test.

35:15-18-3. Testing for Equine Piroplasmosis [NEW]

(a) All racing Quarter horses, Paint horses, and Appaloosas entering a racetrack facility shall have proof of a negative Piroplasmosis test (T. equi) within the past twelve (12) months.

(b) All official samples collected from Equidae for Piroplasmosis testing shall be collected by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board. Samples shall be submitted to an approved lab within 30 days of collection.

(1) The State Veterinarian, a state or federal veterinarian, an authorized agent of the Board, or an accredited veterinarian acting under authority of the State Veterinarian may cause an official test to be conducted on any Equidae known or suspected to be infected with or exposed to Piroplasmosis.

(2) If the owner refuses or neglects to comply with the testing requirements, the Equidae shall be quarantined and the movement of any Equidae from the premises shall be prohibited.

(3) The State Veterinarian may provide and require supervision for collection of test samples submitted by an accredited veterinarian.

(4) Any person providing erroneous or fictitious information shall be in violation of these rules.

(5) Any person altering, defacing, or falsifying information on a test chart, permit, certificate of veterinary inspection, or any form associated with the Piroplasmosis program shall be in violation of these rules.

(6) Equine piroplasmosis laboratory results shall include a description of the horse.

(c) All Equidae epidemiologically determined to have been exposed to a Piroplasmosis positive animal shall be quarantined and tested by a state or federal veterinarian, an accredited veterinarian, or an authorized agent of the Board.

(1) Test results for suspect cases and reactor Equidae shall be confirmed by NVSL.

(2) Positive results shall be confirmed by NVSL.

(3) Exposed Equidae that test negative shall be retested at least thirty (30) calendar days from last exposure to a Positive Equidae.

(4) Epidemiologic data may be considered in the testing requirements for Exposed Equidae and affected herds.

(d) Release of quarantine.

(1) No Equidae held under quarantine shall be moved or released without a permit or quarantine release signed by an authorized agent has been executed.

(2) Exposed Equidae may be released from quarantine after obtaining a negative test a minimum of thirty (30) calendar days from the last exposure.

(3) Epidemiologic data may be considered in the release of the quarantine.

(e) Foals born to positive mares are considered exposed and shall be tested because Equine Piroplasmosis hemoparasites may be transmitted in utero or at parturition.

(1) Foals under six (6) months of age may carry maternal antibodies to infection but may not be infected. Therefore, seropositive foals without other evidence of infection via PCR or blood smears shall be retested after waning of maternal antibodies.

(2) Foals shall be kept in quarantine until weaned or separated from the mare and until tested negative for Equine Piroplasmosis at NVSL.

35:15-18-4. Management and disposition of Positive Equidae [NEW]

(a) Any Equidae confirmed positive for Equine Piroplasmosis shall be officially identified by the Department or regulatory personnel acting under the authority of the State Veterinarian, unless already electronically identified.

(b) Options for managing Positive Equidae include quarantine, quarantine with treatment, export, and euthanasia. Conditions for quarantine shall be outlined in an established herd plan between the owner and the State Veterinarian. Standards for quarantine shall differ for high risk and low risk premises.

(c) Management of Positive Equidae shall be conducted under the direct supervision of the State Veterinarian.

(1) Quarantine on high risk premises:

(A) Positive Equidae shall be housed in a tick free facility on any premises approved by the State Veterinarian.

(B) If no tick free facility is available, the Positive Equidae shall be housed at a predetermined safe distance from other Equidae. The State Veterinarian shall determine the predetermined distance with the goal of reducing the risk of tick borne transmission and shall consider tick species in the area, natural geographical barriers, seasonal variation, the potential role of wildlife in tick movement, and other factors.

(C) A tick free facility may be of any size but shall be surrounded by two (2) fences a minimum of thirty (30) feet apart, with the zone between the fences free of vegetation and animals.

(D) Prior to moving Positive Equidae into a facility, the Equidae, the facility, and the thirty (30) foot barrier zone shall be treated to eliminate ticks using an approved acaricide.

(i) Positive Equidae shall be maintained on an acaricide treatment interval pursuant to label directions of an approved product to minimize tick infestations.

(ii) Acaricides used shall be labeled as effective against and approved for use on Equidae or on the environment (i.e., pasture, stall, soil, etc.).

(E) Unless approved by the State Veterinarian, only positive Equidae are allowed in the tick-free facility. Dogs, other domestic animals, or livestock shall not be allowed to enter the facility unless maintained on acaricide treatment and remain tick free at all times.

(F) Facility inspections shall be conducted pursuant to the following schedule:

(i) The State Veterinarian shall make at least two (2) unannounced inspections of the facility within the first sixty (60) calendar days of quarantine to ensure no unauthorized animals are moving to or from the facility, the thirty (30) foot zone is free of vegetation and animals, and the Positive Equidae are not tick infested.

(ii) During the first year of quarantine, premises shall be inspected at least quarterly, or more frequently as determined by the State Veterinarian, to assess compliance. At least one of these inspections shall be unannounced.

(iii) After the first year of quarantine, there shall be a minimum of two (2) intensive premises inspections per year for premises that repeatedly demonstrate complete compliance. These inspections may be scheduled or unannounced at the discretion of the State Veterinarian.

(iv) Frequency of inspections shall be increased in cases where the State Veterinarian has identified the potential for noncompliance.

(G) Working, exercising, or allowing other contact between Positive and Negative Equidae shall not be allowed except in the following circumstances:

(i) Any contact with other animals shall only occur on the quarantined premises.

(ii) Both Positive and Negative Equidae shall be treated with an approved acaricide not less than twenty four (24) hours and not more than fourteen (14) days prior to any contact.

(iii) Equidae shall not be left unattended in pastures. When acaricide treated Positive Equidae are not being ridden, they shall be placed in a trailer or kept a minimum of ten (10) feet from acaricide treated Negative Equidae.

(iv) Trailers used to transport Positive Equidae within the quarantined premises shall be treated with acaricide after each use.

(v) Premises where Positive and Negative Equidae have any contact shall be subject to more frequent inspections by the State Veterinarian.

(2) Quarantine on low risk premises:

(A) Positive Equidae shall be housed in separate pens or pastures away from Negative Equidae.

(i) There shall be a minimum ten (10) foot separation maintained between Positive Equidae and Negative Equidae on the same or adjacent low risk premises, with vegetation kept no higher than four (4) inches tall in the intervening space.

(ii) If the ten (10) foot separation is not possible due to facility size or other limiting factors, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine if sufficient space and barriers are available to establish and maintain the necessary isolation of Positive Equidae.

(B) Inspections shall occur on the same schedule as for Positive Equidae quarantined on high risk premises.

(3) Quarantine and enrollment in an approved Equine Piroplasmosis treatment program shall be available upon the approval of the State Veterinarian.

(A) Any associated costs for an approved Equine Piroplasmosis treatment program shall be the owner's responsibility.

(B) Management of Positive Equidae enrolled in an approved Equine Piroplasmosis treatment program shall be in accordance with the standards specified in this section.

(C) If an Equidae completes an approved treatment program, effectively demonstrates freedom from the organism, and no longer meets the confirmed positive case definition for Equine Piroplasmosis, the Equidae may be eligible for quarantine release at the discretion of the State Veterinarian.

(4) It shall be the owner's responsibility to coordinate with authorities in the destination country for the export of an Equine Piroplasmosis Positive Equidae and to arrange for transportation. The Positive Equidae shall be transported to the export facility under an APHIS movement permit and official seal.

(5) Euthanasia and disposal:

(A) Both euthanasia and disposal shall be documented and conducted pursuant to the supervision of the State Veterinarian.

(B) Federal and State indemnity shall not be available.

35:15-18-5. Release and removal options for Exposed Equidae [NEW]

(a) On high risk premises where positive Equidae remain, exposed Equidae may be released from quarantine and removed from the premises under the following conditions:

(1) NVSL tests the Exposed Equidae and determines they are negative.

(2) The Negative Equidae are treated for ticks using an approved acaricide.

(3) Exposed Equidae are confined to a negative equine facility (e.g., pen, paddock, stall):

(A) The negative facility shall contain no vegetation and shall have been treated with an approved acaricide;

(B) The facility is surrounded by two fences a minimum of thirty (30) feet apart with a zone free of vegetation between the fences or barriers;

(C) The thirty (30) foot zone around the facility is kept free of vegetation and treated with an acaricide approved for treating facilities to eliminate ticks. Treatments shall be repeated as often as necessary according to label instructions to maintain a zone with no ticks. If thirty (30) feet of separation is not possible, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine whether sufficient space and barriers are available for isolating the Negative Equidae; and

(D) No equipment, tack, hay, feed, bedding, manure, clothing, or other items have been brought into the negative facility from any Positive Equidae premises.

(4) After the animals are confined, they are retreated with an acaricide pursuant to the product label requirements.

(5) The Negative Equidae are inspected for ticks ("scratched") and retested by the NVSL not less than thirty (30) days following entry into the negative equine facility. Exposed Equidae that are negative on the retest and free of ticks may be released from the quarantine if treated with an approved acaricide and removed from the premises.

(6) Dogs, other domestic animals, or livestock that have access to a negative equine facility shall be treated to prevent tick transmission to the facility.

(b) After all Positive Equidae have been removed from high risk premises, the remaining Equidae may be released from quarantine through the following process based on the presence of vegetation on the premises:

(1) Premises with no vegetation:

(A) After all Positive Equidae leave the premises, the Negative Equidae shall be treated for ticks using an approved acaricide.
(B) Treat the premises with an approved acaricide.
(C) Retest the negative Exposed Equidae at NVSL no less than thirty (30) days after removing the Positive Equidae.
(D) If the Equidae are negative on the retest, the quarantine may be released by the State Veterinarian.

(2) Premises with vegetation:
(A) After all Positive Equidae leave the premises, the Negative Equidae shall be treated for ticks using an approved acaricide.
(B) The vegetation shall be mowed to less than four (4) inches, residual grass clippings shall be removed, and the premises shall be treated with a registered acaricide effective against ticks and approved for grazing pastures. While spraying pastures, animals shall be kept in stalls, sheds, trailers, or other areas until the forage is safe for ingestion, per acaricide label directions.
(C) The Negative Exposed Equidae shall be retested by NVSL no less than thirty (30) days after removing Positive Equidae.
(D) If the Equidae are negative on the retest, the quarantine may be released by the State Veterinarian.
(E) Dates of treatment shall be recorded on a treatment record maintained by the owner.
(F) The State Veterinarian shall review records regularly for the duration of the quarantine period.

(c) Exposed Equidae on low risk premises may be released from quarantine order under the following conditions:
(1) NVSL tests the Exposed Equidae and finds them negative for Equine Piroplasmosis.
(2) Negative Equidae on the premises or adjacent premises are separated from Positive Equidae by a minimum of ten (10) feet, with vegetation kept below four (4) inches tall in the intervening space.
(3) If ten (10) feet of separation is not possible due to facility size or other limiting factors, the State Veterinarian shall evaluate the facilities on a case-by-case basis to determine whether sufficient space is available to isolate Positive Equidae.
(4) At the time they are tested, all Equidae shall undergo an initial treatment for ticks with an approved acaricide.
(5) Negative Equidae shall be retreated following initial treatment, according to product label instructions, and kept free of ticks until retested.
(6) Negative Equidae shall be inspected for ticks (scratched) and retested negative by NVSL not less than thirty (30) days following the initial treatment and separation from Positive Equidae.
(7) If Exposed Equidae are removed from the premises within thirty (30) days of a verified negative status (i.e., the releasing test) and within fourteen (14) days of a treatment, no additional testing or treatment shall be required.
(8) If the State Veterinarian identifies possible pasture contamination after removal of a Positive Equidae, the following steps shall be taken for twelve (12) months after removal:
(A) Apply an acaricide treatment each time the Negative Equidae is moved from the premises;
(B) Within thirty (30) days prior to movement, retest the Negative Exposed Equidae, and confirm their negative status; and
(C) Conduct a final negative test at the end of the twelve (12) month period for all remaining Negative Exposed Equidae.
(9) If a Negative Exposed Equidae on a low risk premises subsequently tests positive for Equine Piroplasmosis, the classification of the premises shall be reevaluated by the State Veterinarian. Epidemiological evidence of disease transmission may elevate the classification of the premises to high risk.

35:15-18-6. Long term maintenance of Negative Exposed Equidae [NEW]

(a) On premises where Negative and Positive Equidae remain long term, management practices shall minimize the risk of Equine Piroplasmosis transmission.
(b) Long term maintenance of Negative Exposed Equidae on high risk premises that have Positive Equidae shall meet the following:
(1) The owner shall complete all requirements found in these rules, except instead of confining the Negative Equidae to a prescribed facility, the Positive Equidae shall be confined to an enclosure with the same restrictions and requirements.
(2) The Negative Equidae shall be retested for Equine Piroplasmosis annually and within thirty (30) days prior to any movement from the premises or change of ownership.

(3) Immediately prior to moving any Negative Equidae, the State Veterinarian shall inspect (scratch) the Negative Equidae for ticks and require treatment of the Equidae with an approved acaricide. The animals shall not be moved unless the inspection reveals no ticks and the animals move off the premises with acaricide.

(c) Long term maintenance of Negative Exposed Equidae on low risk premises that have Positive Equidae shall comply with the following:

(1) Negative and Positive Equidae shall be kept separated.

(2) Negative Equidae shall be retested and found negative within thirty (30) days prior to movement off the premises.

(3) The owner shall treat Negative Equidae with an approved acaricide not less than twenty four (24) hours and not more than fourteen (14) days prior to moving them from the premises.

(4) Dates of acaricide treatment shall recorded on a treatment record maintained by the owner.

(5) Negative Exposed Equidae shall receive annual retests if Positive Equidae remain on the premises.

(6) If a Negative Exposed Equidae on a low risk premises subsequently tests positive for Equine Piroplasmosis, the classification of the premises shall be reevaluated by the State Veterinarian. Epidemiological evidence of disease transmission may elevate the classification of the premises to high risk.

SUBCHAPTER 19. POULTRY REGULATIONS

35:15-19-1. Definitions [AMENDED]

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

"Baby poultry" means newly hatched poultry that have not been fed or watered.

"Check testing" means the process of collecting blood samples from birds in a flock by state inspectors to verify compliance with rules and testing procedures used by permitted testers.

"Custom hatching" means a process in which a person incubates eggs, through mechanical means, for another person.

"Dealer" means a person other than a flock owner or hatchery who offers poultry products for sale or trade.

"Domesticated" means propagated and maintained under the control of a person.

"Exhibition poultry" means domestic fowl bred for purposes of meat or egg production and competitive or noncompetitive showing.

"Flock" means:

(A) As applied to breeding, all poultry of one kind of mating (breed and variety or combination of stocks) and one classification on one farm.

(B) As applied to disease control, all ~~of~~ the poultry on one farm except that, at the discretion of the Official State Agency, any group of poultry segregated from another group and has been segregated for a period of at least 21 days may be considered a separate flock.

"Fowl typhoid" or **"typhoid"** means a disease of poultry caused by Salmonella gallinarum.

"Hatchery" means hatchery equipment on one premise operated or controlled by any person used for the incubation of eggs with the intention of:

(A) Selling or dispensing of hatched chicks before they reach sixteen (16) weeks of age, or

(B) Custom hatching.

"Infected flock" means a flock in which one or more birds have been diagnosed by an approved test or isolation of a reportable salmonella group.

"Laboratory" means a laboratory approved by the Board for performing approved serological testing procedures and bacteriological culture techniques.

"Negative test result" means an approved testing procedure in which the blood or serum antigen mixture fails to agglutinate.

"Official leg band" or **"wing band"** means an individual identification device for poultry approved by the State Veterinarian.

"Official State Agency" means the Department.

"Official test" means the official blood tests for pullorum-typhoid shall be the standard tube agglutination test, the microagglutination test, the rapid serum test, or the stained antigen, rapid whole-blood test for all classes of poultry.

"Permitted tester" means a person qualified and authorized by the State Veterinarian or the poultry disease control authority of the state of origin to collect and test blood samples for the pullorum-typhoid eradication program.

"Positive test result" means an approved testing procedure in which there is complete or nearly complete agglutination.

"Poultry" means domesticated fowl, including chickens, turkeys, ostriches, emus, rheas, cassowaries, waterfowl, ~~game chickens,~~ and game birds, except doves and pigeons, which are bred for the primary purpose of producing eggs or meat.

"Poultry house" or "house" means any building used to house poultry.

"Products" means poultry breeding stock, hatching eggs, baby poultry, and started poultry.

"Pullorum disease" or **"pullorum"** means a disease of poultry caused by Salmonella pullorum.

"Quarantine" means, but is not limited to, any order, hold, affected area, quarantine, infected premise or area, movement restrictions of any kind, or notice issued by any state or federal entity specifying boundaries or conditions of the quarantine.

"Started poultry" means young poultry that have been fed and watered and are less than sixteen (16) weeks of age.

"State" means any state, the District of Columbia, the Virgin Islands, or Puerto Rico.

"State Inspector" means any person employed by the Official State Agency to supervise the selecting and testing of participating flocks and to perform the official inspections and tests necessary to verify compliance with the requirements of the National Poultry Improvement Plan.

35:15-19-2. Applicability and scope [AMENDED]

The rules in this Subchapter shall apply to all persons producing hatching eggs, hatching, selling, or exhibiting domesticated poultry within the State of Oklahoma. The National Poultry Improvement Plan regulations found in Title 9 of the Code of Federal Regulations, Sections 145-147, are hereby adopted in their entirety.

SUBCHAPTER 22. SWINE PSEUDORABIES AND BRUCELLOSIS

PART 1. GENERAL PROVISIONS

35:15-22-1. Definitions [AMENDED]

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

"Breeding swine" means all sexually intact swine six (6) months of age or older as determined by an accredited veterinarian.

"Brucellosis" means the contagious infection and communicable disease caused by the bacteria of the genus *Brucella*.

"Commercial production swine" means swine that are continuously managed and have adequate facilities and practices to prevent exposure to either transitional production or feral swine.

"Commuter herd" means two or more groups of swine under common ownership or supervision that are located on more than one premise in more than one state and that have an interchange or movement of swine between the premises in those states as part of the normal feeding, breeding, or growing operation without a change of ownership.

"Commuter herd agreement" means a written herd management and testing agreement made by the chief animal health officials of all states where the commuter herd resides and the herd owner.

"Entry permit" means official permission from the State Veterinarian obtained prior to moving swine into Oklahoma valid for thirty (30) days after the date of issuance that may be obtained by telephone by providing the following information: name and address of the consignor; name and address of the consignee; and the number, age, sex, and breed of the swine to be imported.

"Exposed swine" means swine that have been in contact with, associated with, or adjacent to any animal known to be pseudorabies or brucellosis positive.

"Farm of origin" means the farm where the swine were born or where the swine have resided for at least the previous ninety (90) consecutive days.

"Feeder swine" means swine intended to be fed to a finished slaughter weight and not intended for breeding or exhibition.

"Feral swine" means any hog, pig, or swine species (Sus scrofa) including, but not limited to, Russian and European wild boar that are running at large, free roaming, or wild upon public or private lands in this state, and shall also include any hog, pig, or swine species that has lived any part of its life running at large, free roaming, or wild. The term feral swine shall also include any feral phenotype swine, whether ~~or not~~ running at large, free roaming, or wild.

"Herd" means one or more swine maintained on common ground and includes all swine under common ownership or supervision that are geographically separated but have an interchange or movement of swine between the groups.

"Infected herd" means a herd in which an animal has been determined by the designated epidemiologist to be infected with pseudorabies or brucellosis using an official test.

"Isolation" means separation of swine by a physical barrier so that other swine do not have access to the isolated swine's body, excrement, or discharges and the swine do not share a building with a common ventilation system with other swine and are kept at a distance from other swine as determined by the designated epidemiologist.

"Livestock auction market" means a stockyard, livestock market, or other premises approved by the Department where livestock are assembled for sale.

"Monitored Swine Herd" means a commercial production swine herd that undergoes regular testing for pseudorabies and brucellosis.

"Official Blood Sample" means a blood sample obtained and submitted by a state or federal regulatory official, an accredited veterinarian, or individuals under the supervision of an accredited veterinarian for pseudorabies or brucellosis testing of Oklahoma origin swine. No other blood samples submitted for testing shall be considered an official sample. Costs of blood sample collection and submission shall be paid by the owner. In the event funds are made available by the United State Department of Agriculture or the State Board of Agriculture for blood sample collection or submission or for laboratory fees, these funds may be used without interruption or change in any other program functions or policies.

"Official test" means a test approved by the USDA to be conducted on swine for the diagnosis of pseudorabies or brucellosis and performed in a laboratory listed in a Veterinary Services Notice.

"Official 95/10 random sample test" means a sampling protocol utilizing official pseudorabies and brucellosis tests that provide a ninety-five (95) percent probability of detecting infection in a herd in which at least ten (10) percent of the swine are seropositive for pseudorabies or brucellosis. Each segregated group of swine shall be considered a separate herd and sampled as follows:

(A) less than 100 head - test 25.
(B) 100-200 head - test 27.
(C) 201 - 999 head - test 28.
(D) 1,000 head and over - test 29.

"Owner-shipper statement" means a statement signed by the owner or shipper of swine which includes the number of swine to be moved, the points of origin and destination, the names of the consignor and consignee, and any additional required information.

"Premium Sale" means an auction held in conjunction with a livestock show in which exhibitors are awarded prizes for the work they have done to show their animals.

"Pseudorabies" means the infectious and communicable disease of livestock and other animals also known as Aujeszky's disease, mad itch, or infectious bulbar paralysis.

"Slaughter swine" means swine consigned directly to a slaughter establishment.

"Swine Exhibition" means any swine gathering that allows opportunity for commingling of swine under separate ownership, including but not limited to fairs, livestock shows, breed association shows, or sales.

"Transitional production swine" means any swine that are bred, raised, or intended for exhibition, any swine that has outdoor exposure during any portion of its production cycle, or any other swine that have reasonable opportunities to be exposed to feral swine.

"Validated / Qualified Herd or V/Q Herd" means a herd of breeding swine maintained under a surveillance program whereby twenty five percent (25%) of the herd tests negative for pseudorabies and swine brucellosis on a quarterly basis.

PART 5. REQUIREMENTS FOR A VALIDATED/QUALIFIED HERD

35:15-22-53. V/Q herd maintenance [AMENDED]

(a) V/Q herd status shall be maintained by subjecting all swine six (6) months of age or older to brucellosis and pseudorabies tests at least once each testing year.

(1) The herd owner shall test negative twenty five percent (25%) of swine six (6) months of age and older every quarter.
(2) Quarterly testing dates shall be assigned by the Department.

(b) No swine shall be tested twice in a single twelve (12) month period to comply with the twenty five percent (25%) requirement unless a V/Q herd consists of less than four (4) test eligible swine. If the herd consists of less than four (4) test eligible swine, one or more of the animals shall be repeat tested during the same twelve (12) month testing period and quarterly tests shall not be missed.
(c) All swine six (6) months of age and older within a V/Q herd shall be tested at least once in any twelve (12) month period, even if the testing exceeds the twenty five percent (25%) requirement.
(d) If any quarterly tests are missed, late, incomplete, inaccurate, or do not meet V/Q herd standards, the V/Q herd status may be suspended or revoked. A ~~past~~ history of noncompliance by the herd owner may result in prevention of the herd's participation in the program.
(e) The herd owner shall submit a completed renewal application and ~~inventrory~~inventory with the first quarterly herd test each testing year.

PART 7. REQUIREMENTS FOR SWINE EXHIBITIONS

35:15-22-71. Exhibition requirements [AMENDED]
(a) Each person who presents swine for a swine exhibition, special sale, or show shall provide verification of one of the following:
(1) A federal premises identification number; or
(2) A state location identification number.
(b) Swine shall be individually identified at the time of testing with both ear notches and an 840 button-type electronic official identification ~~ear tag~~. Untested exhibition swine originating from a V/Q herd shall be similarly identified prior to exhibition.
(c) All swine shall meet one of the following testing requirements:
(1) Oklahoma origin swine shall have a negative brucellosis and pseudorabies test after May 15 each year for summer fall exhibitions and after November 10 each year for winter and spring exhibitions. These tests are valid for the entire respective exhibition season, unless in the opinion of the designated epidemiologist the swine have been exposed to pseudorabies or brucellosis. The swine shall also be accompanied by a copy of the official test chart or a certificate of veterinary inspection listing the test results, laboratory name, laboratory accession number, and individual identification.
(2) Swine originating from outside of Oklahoma shall meet the requirements of OAC 35:15-22-33(a) - (c).
(3) Each swine shall originate from a V/Q herd and only be exhibited by an immediate family member of the VQ herd owner. The V/Q herd number, most recent quarterly test date, and official identification of all swine being exhibited shall be listed on the certificate of veterinary inspection.

35:15-22-72. Swine exhibition event requirements [AMENDED]
(a) No swine exhibitions shall be held within five (5) working days after the dates in OAC 35:15-22-71(c) to allow time for required testing to be performed. Swine exhibition permits shall not be approved during that time.
(b) Prior to an event, the exhibition official in charge shall obtain one of the following:
(1) A federal premises identification number for the location of the swine exhibition, or
(2) state location identification number.
~~(b)~~(c) Prior to the event, the exhibition official in charge shall also obtain a swine exhibition permit from the Department by filing an application that at a minimum shall include:
(1) The name of the official in charge,
(2) The name of the exhibition,
(3) The date of the exhibition,
(4) The location of the exhibition,
(5) The federal premises identification number or state location identification number, and
(6) A signature certifying the exhibition official understands and agrees to the requirements for conducting a swine exhibition.
~~(c)~~(d) The exhibition official in charge shall verify that all swine allowed to enter the exhibition grounds meet all identification, testing, and recordation requirements prior to entry.
~~(d)~~(e) The exhibition official in charge shall submit, at a minimum, the following records to the Department within fifteen (15) days after the exhibition:
(1) Name, address, telephone number, and federal premise identification number or state location identification number of participants, and

(2) Official identification, age, breed, and sex of swine exhibited.

~~(e)~~(f) A swine exhibition shall not include a livestock market.

(g) No swine exhibitions shall be conducted after March 1 of each year, except for the Oklahoma Youth Expo until its conclusion.

(1) If a premium sale is conducted after March 1, the swine may not return for the event.

(2) A swine exhibition permit shall not be approved pursuant to (g) above.

(3) If proof exists of a swine being exhibited after March 1, that swine and any other swine from the same premises are prohibited from attending the Oklahoma Youth Expo.

SUBCHAPTER 38. BOVINE TRICHOMONIASIS

35:15-38-1. Definitions [AMENDED]

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

"Acceptable specimen" means a specimen determined satisfactory for diagnostic testing by the testing laboratory, including complete documentation.

"Approved feedlot" means a confined animal feeding operation (CAFO) licensed by the Department.

"Approved laboratory" means any laboratory designated and approved by the state veterinarian for examining T. foetus samples.

"Approved veterinarian" means a licensed accredited veterinarian who has complied with all Department regulations and educational requirements, and who has been approved by the Department to conduct necessary tests, vaccinations, inspections, and other duties.

"Bovine" means any sexually intact male and female animal of the genus bos.

"Change of ownership" means control of an animal being transferred between two (2) persons by sale, lease, or lending.

"Commingle" means animals of opposite sex and/or belonging to different owners in the same enclosure or pasture with a reasonable opportunity for sexual contact.

"Exposed bull" means an untested bull that has had an opportunity to breed exposed female cattle.

"Exposed female" means a female bovine animal that is sexually intact and sexually mature that could have been exposed to a positive T. foetus bull.

"Herd" means the group of animals consisting of all male and female bovines over twelve (12) months of age that have commingled during the last twelve (12) months.

"Negative T. foetus bull" means a bull that qualifies by one of the following:

(A) ~~originate from a herd not known to be infected and has had a~~A negative official T. foetus bull test within ~~the last year~~ the previous sixty (60) days with no exposure to female cattle for one (1) week prior to the test and no exposure to female cattle between the test and change of ownership; or

(B) originate from a positive herd but has a series of three negative official T. foetus bull tests at intervals of at least one week~~; or~~.

~~(C) a negative official T. foetus bull test within sixty (60) days prior to entry with no sexual activity for one (1) week prior to the test and between the test and movement~~.

"Official T. foetus laboratory testing" means the laboratory procedures that shall be approved by the state veterinarian for ~~culture and identification~~determination of a bovine T. foetus status.

"Official T. foetus bull test" means the sampling of the preputial content of a bull by a licensed, accredited and trichomoniasis certified veterinarian or a veterinarian from the Oklahoma Department of Agriculture, Food, and Forestry. The test shall be conducted after at least one (1) week separation from all female bovine and the bull and sample shall be officially identified and documented for laboratory submission. The test shall consist of one (1) ~~Real Time PCR test~~ approved and validated testing procedure. Pooled samples are acceptable.

"Oklahoma trichomoniasis certified free herd" means a herd of cattle that has been determined to be free of bovine trichomoniasis by following the requirements of OAC 35:15-38-4.

"Pooled sample" means a method of sampling where a sample from each bull is submitted in an individual transport pouch approved media containers and the laboratory mixes aliquots from up to five (5) samples together to economize the test cost.

"Positive T. foetus bull" means a bull that has had a positive T. foetus test.

"Positive T. foetus herd" means the group of all bovines which have had any opportunity for sexual contact in the previous breeding season and in which any male or female animal has had a positive diagnosis for T. foetus.

"Resident herd of origin" means a group of livestock maintained together as a herd or flock on the same premises for at least four (4) months.

"Suspect T. foetus bull" means a bull from a positive T. foetus herd that has not yet had three (3) consecutive negative official T. foetus bull tests.

"Tritrichomas foetus" or **"T. foetus"** means a contagious venereal protozoan parasite disease of the trichomonas foetus species that frequently results in lifetime infection of male ~~bovidae~~Bovidae as an inapparent carrier and causes infertility, pyometra, abortions and reproductive inefficiency in female ~~Bovidae~~ Bovidae.

"Unacceptable sample" means a sample that is deemed not diagnostic by the official testing laboratory.

"Virgin bull" means a sexually intact male bovine less than twelve (12) months of age or a sexually intact male bovine between twelve (12) and eighteen (18) months of age that has had no breeding and no potential breeding contact with females.

"Virgin bull affidavit" means a signed affidavit from the owner, manager, or veterinarian that verifies the bull is between twelve (12) and eighteen (18) months of age and has had no breeding and no potential breeding contact with females.

35:15-38-3. Import requirements for reproductive bovine females [AMENDED]

(a) Female cattle or bison may enter Oklahoma with no restrictions unless originating from a known positive T. foetus herd.

(b) A female bovine originating from a known positive T. foetus herd may enter Oklahoma only upon a CVI with a statement that the female is from a known T. foetus infected herd pursuant to one of the following circumstances:

(1) The female bovine has a calf at side and no exposure to other than known negative bulls since parturition;

(2) The female bovine are at least one hundred twenty (120) days pregnant;

(3) The female bovine are known to be virgin heifers;

(4) The female bovine are heifers exposed only to known negative bulls and are not yet one hundred twenty (120) days pregnant;

(5) The female bovine are documented to have had at least one hundred ~~twenty (120)~~eighty (180) days of sexual isolation; or

(6) The female bovine are consigned directly to slaughter or to a quarantined feedlot.

SUBCHAPTER 40. BOVINE TUBERCULOSIS

PART 1. DEFINITIONS

35:15-40-1. Definitions [AMENDED]

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

"Accredited free state" means a state that maintains full compliance with all of the provisions of the USDA Uniform Methods and Rules for bovine tuberculosis eradication and where no evidence of bovine tuberculosis has been disclosed for five (5) or more years.

"Accredited herd" means a herd of cattle, bison, or dairy goats that passed at least two (2) consecutive negative caudal fold tuberculin tests at an interval of not less than ten (10) months nor more than fourteen (14) months, has no other evidence of bovine tuberculosis, and meet the standards of this Subchapter.

"Affected herd" means a herd of cattle, bison, or dairy goats that contains, or has recently contained, one (1) or more animals infected with Mycobacterium bovis and has not passed the required tests necessary for release from quarantine.

"Annual tests" means those tests conducted at intervals of not less than ten (10) months nor more than fourteen (14) months.

"Approved feedlot" means a confined dry lot area for the finish feeding of animals on a concentrated feed with no facilities for pasturing or grazing that is licensed as a Concentrated Animal Feeding Operation by the Department's Agriculture Environmental Management Services ~~Divison~~ Division.

"Auction" means a public sale of cattle, bison, or dairy goats to the highest bidder.

"Bison" means a bovine-like animal (genus Bison) commonly referred to as American buffalo or buffalo.

"Bovine Tuberculosis" means a disease in cattle, bison, or dairy goats caused by Mycobacterium bovis.

"Cattle" means all domestic bovine (genus Bos).

"Caudal Fold Tuberculin Test" or **"CFT"** means the intradermal injection of 0.1 milliliters of USDA bovine purified protein derivative (PPD) tuberculin into either side of the caudal fold, with reading by visual observation and palpation seventy-two (72) hours (+ or - 6 hours) following injection. Animals or herds of unknown status shall not be subjected to retest at intervals of less than sixty (60) days.

"Commission firm" means a person, partnership, or corporation that buys or sells livestock as a third party and reports to the seller or to the buyer details of the transactions whether or not a fee is charged for the services.

"Comparative Cervical Tuberculin Test" or **"CCT"** means the intradermal injection of biologically balanced bovine PPD tuberculin and avian PPD tuberculin at separate sites in the cervical area and a determination as to the probable presence of bovine tuberculosis (M. bovis) by comparing the responses of the two (2) tuberculins seventy-two (72) hours (+ or - 6 hours) following injection.

"Dairy cattle" means any typical dairy framed animals and dairy crossbred animals as determined by the inspecting veterinarian.

"Dairy goats" means domestic caprine (genus Capra) kept for the purpose of producing milk for human consumption.

"Dealer" means any person, firm, or partnership engaged in the business of buying or selling cattle, bison, or dairy goats in commerce, either on the dealer's own account or as the employee or agent of the vendor or purchaser, or any person engaged in the business of buying or selling cattle, bison, swine, sheep, or dairy goats in commerce on a commission basis. The term shall not include any person who buys or sells cattle, bison, or dairy goats as a part of their own bona fide breeding, feeding, or dairy operation; is not engaged in negotiating the transfer of cattle, bison, or dairy goats; or receives cattle, bison, or dairy goats exclusively for immediate slaughter on the person's own premise.

"Eradication" means the complete elimination of bovine tuberculosis from cattle and bison in the state so that the disease does not appear unless introduced from another species or from outside the state.

"Event" means a competition in which Mexican roping cattle, US born Corriente cattle, Longhorn cattle used for roping, or other cattle that may have commingled with these cattle are utilized.

"Exposed animals" means cattle, bison, or dairy goats that have been exposed to bovine tuberculosis by reason of associating with known tuberculous animals.

"Feedlot" means a confined dry lot area for the finish feeding of animals on a concentrated feed with no facilities for pasturing or grazing.

"Herd" means one or more cattle, bison, or dairy goats maintained on common ground or two (2) or more groups of cattle, bison, or dairy goats under common ownership or supervision that are geographically separated but can have an interchange or movement without regard to health status.

"Herd plan" means a herd management and testing plan designed by a state or federal regulatory veterinarian and the herd owner that will control and eventually eradicate bovine tuberculosis from an affected, adjacent, or exposed herd.

"High risk cattle" means cattle from countries, states, or areas that are not considered Bovine Tuberculosis free, including but not limited to, dairy cattle, exhibition cattle, rodeo cattle, and Mexican origin cattle.

"Mexican origin" means cattle that originate or have ever resided in Mexico.

"Modified Accredited Advanced State" means a state that is actively participating in the eradication of bovine tuberculosis and that maintains its status in accordance with the provisions of the USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication.

"Modified Accredited State" means a state that is actively participating in the eradication of bovine tuberculosis and that maintains its status in accordance with the provisions of the USDA Uniform Methods and Rules for Bovine Tuberculosis Eradication.

"Natural additions" means animals born and raised in a herd.

"No Gross Lesion Animals" or **"NGL"** means any cattle, bison, or dairy goats that do not reveal a lesion of bovine tuberculosis upon postmortem inspection. Any animal with skin lesions alone shall be considered a NGL animal.

"Official in charge" means any manager, superintendent, secretary, or other person responsible for an exhibition.

"Official tuberculin test" means a test for tuberculosis conducted and reported by approved personnel in accordance with this Subchapter and the USDA Uniform Methods and Rules for bovine tuberculosis eradication. The official tuberculin tests are the caudal fold test, the comparative cervical test, the single cervical test, gamma interferon test, or any other test that is approved by the United States Department of Agriculture (USDA).

"Permit" means a VS 127 issued by an authorized agent of the State Board of Agriculture, a representative of USDA APHIS Veterinary Services or an accredited veterinarian that is required to accompany any reactor, suspect, or exposed animals to slaughter.

"Reactor" means any animal that may be classified as a reactor by the designated epidemiologist based on supplemental diagnostic tests results from approved laboratories or other information.

"Rodeo bulls" means sexually intact male cattle kept for the purposes of performances at rodeos, bucking events, exhibition purposes, or for breeding to produce rodeo bulls.

"Suspect" means any cattle, bison, or goats that show a response to the caudal fold tuberculin test and are not classified as reactors, and cattle, bison, or goats that are classified suspects by a comparative cervical test.

"Tuberculin" means a product that is approved by and produced under USDA license for injection into cattle, bison, or goats for the purpose of detecting bovine tuberculosis.

PART 3. GENERAL TUBERCULOSIS RULES

35:15-40-49.2. Mexican and rodeo or event cattle intrastate regulations [AMENDED]

(a) Mexican origin steers, spayed heifers, and any commingled cattle shall not be diverted from or separated from the main group within the stocker, feeder, slaughter channel.

(b) Mexican origin steers and spayed heifers shall not be commingled with any cattle other than stocker, feeder, slaughter cattle. Any commingled cattle assume the same status as the Mexican cattle.

(c) Mexican stocker, feeder, slaughter steers, and spayed heifers which are separated from their imported group shall:

(1) Be accompanied by evidence of a negative tuberculosis test no more than sixty (60) days prior to change of ownership;

(2) Be quarantined and tested for tuberculosis within seven (7) days after the change of ownership date;

(3) Be consigned to an approved feedlot; or

(4) Be tagged for slaughter only and transported directly to a slaughter facility or to an approved feedlot.

(d) Mexican origin steers, ~~and~~ spayed heifers, and ~~U.S. origin Corriente~~non-Mexican cattle utilized as rodeo stock moving within the state shall meet the following requirements:

(1) Be accompanied by a negative tuberculosis test performed by an accredited veterinarian within the previous 365 days;

(2) Be identified with an official identification; and

(3) There is no change of ownership since the date of the last official test.

(e) The official in charge of an event shall be responsible for verifying that all Mexican origin cattle utilized as rodeo stock entering any exhibition meet all testing requirements.

(1) The official in charge of an event shall not be held responsible for recording or accepting falsified or erroneous information provided by an owner.

(2) Any person providing erroneous or fictitious information shall be in violation of these rules.

(f) Any official in charge of an event who knowingly, negligently, or willfully allows an untested or positive animal to enter an exhibition shall be in violation of these rules and the official in charge and the owner of the positive or untested animal shall be equally and individually in violation of these rules.

(g) For the purposes of this section and OAC 35:15-40-49.3, "stocker, feeder, slaughter" means the steps of beef production in which cattle are grazed, finished at an approved feedlot, and sent to a slaughter establishment.

SUBCHAPTER 44. FARMED CERVIDAE

35:15-44-19. Entry and export requirements [AMENDED]

(a) Import of ~~cervidae~~Cervidae shall be accompanied by a Certificate of Veterinary Inspection and a Cervidae Import Permit approved or provided by the Department. A Cervidae Import Permit shall be valid for thirty (30) days from approval.

(b) Cervidae susceptible to chronic wasting disease shall only be imported to a premises with a current license.

(c) Cervidae shall have two forms of identification. One (1) of these two (2) forms of identification shall be official identification.

(d) The State Veterinarian or designee may require a brucellosis test of any ~~cervidae~~Cervidae subject to the provisions of this subchapter.

(e) All ~~cervidae~~Cervidae shall meet the tuberculosis testing provisions found at 9 CFR Part 77 (2021 Revision).

(f) All ~~cervidae~~Cervidae susceptible to chronic wasting disease, within the genera Odocoileus, Cervus, and Alces and their hybrids, shall originate from a chronic wasting disease certified herd ~~from a county where no~~that is more than twenty-five (25) miles from the nearest case of confirmed chronic wasting disease ~~has been confirmed~~ in native ~~cervidae~~Cervidae populations.

(g) For the purposes of this section, all ~~cervidae~~Cervidae that have not been tested and found to be resistant to chronic wasting disease through natural exposure in research projects shall be considered ~~to becervidae~~Cervidae susceptible to chronic wasting disease.

SUBCHAPTER 47. CHRONIC WASTING DISEASE (CWD) IN CERVIDS

PART 3. HERD CERTIFICATION STANDARDS

35:15-47-6. Minimum requirements for herd certification [AMENDED]

(a) Regulations of the United States Department of Agriculture concerning the control of CWD found at 9 CFR Part 55 (2017 Revision) are adopted by reference.
(b) The Board shall issue a quarantine on any herd that contained a CWD positive cervid. The quarantined herd shall not participate in the herd certification program until all herd plan requirements are completed.
(c) All deaths of cervids twelve (12) months of age or older, regardless of cause of death, shall have the obex and medial retropharyngeal lymph nodes sampled and submitted to an approved laboratory by a certified CWD sample collector. CWD sample collectors shall submit written test results to the Department within seven (7) days after receiving said test results from the laboratory.
(d) If eligible animal deaths are not tested due to a missed sample, improper sample, or untestable sample, ~~an additional live animal over twelve (12) months of age shall be sacrificed for sampling,~~ status shall be suspended~~, status decreased, or combination thereof~~. Status may be maintained by:

(1) An additional live animal over twelve (12) months of age may be sacrificed for sampling; or
(2) Antemortem tests as described in USDA's CWD Program Standards may be conducted.

(e) Freezing animal heads or other acts that delay or inhibit quality sampling and testing may result in the suspension, decrease, or loss of CWD status.
(f) The State Veterinarian may relax the minimum requirements for herd certification for extraordinary circumstances.
(g) Herd owners shall report any animals displaying clinical signs of CWD, which may include but are not limited to, weight loss, behavioral changes, excessive salivation, increased drinking and urination, and depression.
(h) Herd owners shall complete an annual herd inventory with an approved veterinarian during the dates assigned by the Department.

SUBCHAPTER 49. MISCELLANEOUS ANIMAL DISEASES

35:15-49-1. Definitions [AMENDED]

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

"Exotic Swine" means swine of the family Suidae, not including swine in the genus sus.

"Malignant catarrhal fever" means alcelaphine herpesvirus-1 (AHV-1), carried asymptomatically by wildebeest.

"Movement" or **"move"** means any transfer of wildebeest from one location to another, and shall include interstate transfer, intrastate transfer, and export.

"Wildebeest" means the animals known as genus Connochaetes, ~~taurinus~~ including both blue and black wildebeest.

35:15-49-7. Equine herpes virus [AMENDED]

(a) The State Veterinarian or any state or federal veterinarian acting under authority of the State Veterinarian may cause an official test to be conducted on any Equidae known or suspected to be infected with or exposed to Equine Herpes Virus.
(b) If the owner refuses or neglects to comply with the testing requirements, the Equidae shall be quarantined and the movement of any Equidae from the premises shall be prohibited.
(c) Cases and outbreaks shall be managed according to the Equine Herpes Virus Myeloencephalopathy Incident Guidelines for State Animal Health Officials (January 2018 Revision).

[OAR Docket #24-667; filed 6-26-24]

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

CHAPTER 17. WATER QUALITY

[OAR Docket #24-669]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Registered Poultry Feeding Operations
35:17-5-3. Registration, Nutrient Management Plan (NMP) required [AMENDED]
35:17-5-3.1. Setbacks for new or expanding construction of poultry barns [AMENDED]
35:17-5-3.2. Cancellation of poultry feeding operation registration [AMENDED]
35:17-5-4. Soil and litter tests required [AMENDED]
35:17-5-5. Nutrient Management Plan [AMENDED]
35:17-5-7. Record keeping [AMENDED]
Subchapter 9. Agricultural Compost Facilities
35:17-9-2. Definitions [AMENDED]
35:17-9-3. Permit provisions and application [AMENDED]
35:17-9-4. Siting of composting facility [AMENDED]
35:17-9-6. Leachate and storm water control [AMENDED]
35:17-9-9. Closure of licensed compost facility retention structures [AMENDED]
AUTHORITY:
Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. §2A-1 et seq., 2 O.S. §10-2 et seq., 2 O.S. §20-1 et seq., and 2 O.S. § 20-40 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2023
COMMENT PERIOD:
December 1, 2023 through January 4, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 26, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

The rule amendments updates language on registration renewal and adds language on transferring a registered poultry operation; adds an additional waiver that applies to the property line setback and reduces; modifies the distance of setbacks detailed on a called map from one mile to a thousand feet; corrects misspelled words; adds additional language that requires poultry waste to be applied by an Oklahoma certified applicator; adds language for alternative methods for disposal of carcasses; removes certain requirements from record keeping; combine the definition of compost facility and facility; modifies the definition of source material to include thermophilic conditions; adds additional requirements to the application for a compost facility; adds requirements for transferring permits for compost facilities; modify requirements for siting of composting facilities in relation to flood plains, property boundaries, and streams; and adds additional requirements for closures of licensed compost facilities.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 5. REGISTERED POULTRY FEEDING OPERATIONS

35:17-5-3. Registration, Nutrient Management Plan (NMP) required [AMENDED]

(a) **Registration.**

(1) It shall be unlawful for any person to construct or operate a new poultry feeding operation without first registering with the State Board of Agriculture.

(2) Every poultry feeding operation shall be required to ~~reregister~~ renew the registration annually by January 1 to operate.

(3) Any poultry feeding operation that has a valid license pursuant to the Oklahoma Concentrated Animal Feeding Operations Act shall not be required to register pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

(4) The owner or operator of a poultry feeding operation not classified as a poultry feeding operation may register if the owner elects to come under the provisions of the Oklahoma Registered Poultry Feeding Operations Act and the rules of the State Board of Agriculture.

(b) **Nutrient Management Plan.**

(1) Every poultry feeding operation shall obtain or apply for an approved NMP addressing both nitrogen and phosphorus.

(2) All new operators of poultry feeding operations shall obtain or apply for a NMP prior to construction of the facility. The NMP shall be completed and implemented within one year of application.

(3) The NMP shall be prepared by USDA NRCS or an entity approved by the Oklahoma Department of Agriculture, Food, and Forestry.

(4) Plans shall be reviewed and updated at least every six (6) years from the date the NMP was obtained. Plans shall also be reviewed and updated in the following circumstances:

(A) When the Oklahoma Department of Agriculture, Food, and Forestry changes the waste utilization standards or

(B) Upon notification of the Oklahoma Department of Agriculture, Food, and Forestry.

(5) The NMP shall be updated prior to the expansion of a facility.

(6) Implementation of the NMP shall occur within ninety (90) days of receipt of the NMP unless otherwise determined by the Oklahoma Department of Agriculture, Food, and Forestry. In no event shall the poultry feeding operation land apply poultry waste in excess of the standards contained in Appendix A.

(c) **Transfer.**

(1) Owners intending to sell a registered poultry feeding operation shall notify the Department at least ten (10) days prior to the final sale.

(2) Owners selling the registered poultry feeding operation shall submit a final annual report for the current fiscal year within thirty (30) days following the final sale.

(3) New owners purchasing a registered poultry feeding operation shall have thirty (30) days to submit a transfer application on a form prescribed by the Department along with the Ten (10) Dollar nonrefundable application fee.

35:17-5-3.1. Setbacks for new or expanding construction of poultry barns [AMENDED]

(a) New or expanding poultry feeding operations, including, but not limited to, poultry barns, composters and other carcass disposal areas, litter sheds, and other buildings associated with the operation, but not to include land application sites, shall not be located within the following applicable distances:

(1) Occupied residence:

(A) Fewer than, and including, one hundred and fifty thousand (150,000) birds shall be five hundred (500) feet; and

(B) More than one hundred and fifty thousand (150,000) birds shall be one thousand (1,000) feet.

(C) The distance between an occupied residence and a poultry waste facility shall be measured from the closest corner of the wall of the occupied residence to the closest point of the poultry waste facility;

(2) Public school shall be one thousand five hundred (1,500) feet;

(3) Incorporated city limits shall be one thousand five hundred (1,500) feet;

(4) Public roadway shall be one hundred and fifty (150) feet and such measurement shall be taken from the center line of the public road;

(5) Property line shall be one hundred and fifty (150) feet;

(6) Perennial or intermittent stream as identified on a current USGS 7.5 minute topographic map shall be two hundred (200) feet;

(7) Private well not owned or used for the poultry feeding operation shall be one hundred (100) feet; and

(8) Public well shall be five hundred (500) feet.

(b) The setbacks contained in subsections (a)(1), (2), ~~and~~ (3), and (5) of this section shall not apply if the applicable property owner, city governing body, or school district executes a written waiver with the owner or operator of the poultry feeding operation, under the terms and conditions that the parties negotiate. The written waiver becomes effective upon recording of the waiver in the offices of the recorder of deeds in the county where the property is located. The filed waiver shall preclude enforcement of the setback requirements contained in subsections (a)(1), (2), ~~and~~ (3), and (5) of this section. A change in ownership of the applicable property or change in the ownership of the property on which the poultry feeding operation is located shall not affect the validity of the waiver.

(c) As a part of the application for a new or expanding poultry feeding operation, the applicant shall provide the following in a detailed scaled map:

(1) Location of the poultry barns, composters and other carcass disposal areas, litter sheds, and other buildings associated with the operation; and

(2) Identification of all locations listed in subsection (a) within one ~~(1) mile~~ thousand (1,000) feet of the facility.

(d) Prior to approval of any application for a new or expanding poultry feeding operation, the Department shall conduct a presite inspection and review and confirm compliance with all setback requirements contained in this section.

(e) Any proposed poultry feeding operation that completed a bank closing on or before October 8, 2018, for the purpose of constructing a poultry feeding operation which has been affected by the State Board of Agriculture October 8, 2018, "Suspension on Acceptance and Processing of Applications for New or Expanding Poultry Operations" shall not be subject to the requirements contained in this section.

(f) An application to register a poultry feeding operation shall be considered filed on the date the Department receives the registration and applicable fees.

35:17-5-3.2. Cancellation of poultry feeding operation registration [AMENDED]

(a) A request to cancel registration of a poultry feeding operation shall be in writing and include a final annual report for the current fiscal year.

(b) Poultry waste shall be ~~property~~properly removed from all poultry waste management systems prior to request for cancellation of a poultry feeding operation registration.

35:17-5-4. Soil and litter tests required [AMENDED]

(a) All soil and poultry waste analysis data shall be dated prior to land application.

(b) Poultry waste shall be applied only by ~~a~~an Oklahoma certified poultry waste applicator.

35:17-5-5. Nutrient Management Plan [AMENDED]

(a) The NMP shall comply with all requirements contained in Appendix B and shall contain, at a minimum, the following:

(1) A description of poultry waste handling procedures and availability of equipment and type of equipment to be used.

(2) The calculations and assumptions used for determining land application rates.

(3) All nutrient analysis data, including soil and poultry waste testing.

(4) Legal description of lands to be used by an operation for land application.

(5) Soils map with description and type or series.

(6) Land application rates of poultry waste shall be based on the available nitrogen and phosphorus content of the poultry waste and soil test results.

(7) The procedures documented in the NMP shall ensure that the handling and utilization of poultry waste complies with the following requirements:

(A) Adequate poultry waste storage shall be provided. Poultry waste shall not be stored without adequate protection from rainfall and runoff. All new poultry feeding operations shall make provisions for storage of poultry waste prior to operating. Exceptions to storage requirements for poultry waste in emergency situations shall be granted on a case by case basis. Exceptions shall include but not be limited to allowing a contract poultry grower to take such actions as are necessary to meet requirements imposed on a grower by an integrator. However, in all situations growers shall be required to take all actions feasible to prevent pollution from stored poultry waste.

(B) Poultry waste shall not be applied to land when the ground is saturated or during rainfall events. Poultry waste shall not be applied to land when the ground is frozen or snow covered except in conformance with the NMP.

(C) Poultry waste shall only be applied to suitable land at appropriate times and rates as specified by the NMP. Runoff of poultry waste from the application site is prohibited.

(D) All practices necessary to minimize movement of poultry waste to watercourses shall be utilized and documented in the NMP.

(E) Edge of field, grassed strips shall separate water courses from runoff which may be carrying eroded soil and poultry waste.

(F) Poultry waste application shall be prohibited on land subject to excessive erosion.

(G) Land application rates of poultry waste shall provide controls for runoff as appropriate for site conditions.

(H) Poultry waste shall only be applied by a certified poultry waste applicator.

(b) The NMP shall also include a method for the disposal of carcasses. The NMP shall include provisions for disposal of carcasses associated with normal mortality and shall include provisions for emergency disposal when a major disease outbreak or other emergency results in deaths significantly higher than normal mortality rates. Accepted methods of carcass disposal include:

(1) Rendering

(A) Disposal of all carcasses shall occur within a reasonable period of time as approved by the State Department of Agriculture.

(B) Storage facilities shall be sealed or have lids and maintained so as to prevent pests and odors.

(2) Burial shall only be ~~allowed~~approved by the Department as a method of emergency carcass disposal if no reasonable alternative exists and specific measures and practices are identified which will be utilized to protect the ground and surface waters of the State.

(3) Composting by methods as approved in the NMP.

(4) Incineration shall only be used as a method of carcass disposal if the poultry feeding operation has a valid air quality permit from the Oklahoma Department of Environmental Quality, Air Quality Division, if required.

(5) Alternative methods submitted to and approved by the Department on a case by case basis.

(c) Storage and land application of poultry waste shall not cause a discharge or runoff of significant pollutants to waters of the State or cause a water quality violation to waters of the State.

(d) The operator shall notify the State Department of Agriculture within twenty-four (24) hours of a discharge.

35:17-5-7. Record keeping [AMENDED]

(a) ~~The following records~~Annual reports regarding all poultry waste removed from or land applied by the facility shall be maintained for a minimum of six (6) years. ~~and shall be available at all times to the State Department of Agriculture:~~

~~(1) Poultry waste application records, rates, and dates of application.~~

~~(2) If the poultry waste is sold or given to other persons, the poultry feeding operation shall maintain a log of:~~

~~(A) Date of removal from the poultry feeding operation.~~

~~(B) Name of recipient the poultry waste is sold or given to.~~
~~(C) Amount in wet tons, dry tons, or cubic yards of poultry waste removed from the poultry feeding operation.~~
~~(D) Poultry feeding operations located in a nutrient limited watershed or nutrient vulnerable groundwaters as defined by the Oklahoma Water Resources Board shall make available to the recipient any nutrient sample analysis from that year. Poultry feeding operations located in non-nutrient limited watersheds or non-nutrient vulnerable groundwaters shall make available to the recipient the most recent nutrient sample analysis~~.

(b) Education certifications shall be maintained for a period of five (5) years and shall be available at all times to the ~~State~~ Department ~~of Agriculture~~.

(c) Soil and poultry waste analysis data shall be retained by the poultry feeding operation for no less than six (6) years.

SUBCHAPTER 9. AGRICULTURAL COMPOST FACILITIES

35:17-9-2. Definitions [AMENDED]

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

"Animal waste" means animal excrement, animal carcasses, feed wastes, process wastewaters or any other waste associated with the confinement of animals from an animal feeding operation.

"Compost facility"or **"facility"**means a facility where source material is converted, under thermophilic conditions, to a product with high humus content for use as a soil amendment or to prevent or remediate pollutants in soil, air, and storm water run off. This includes **"Facility"** ~~means~~ all contiguous land and structures, other appurtenances, and improvements on the land used for the handling, processing, storage, or disposal of compost and source materials or ingredients used in producing compost.

"Leachate" means liquid that has passed through or emerged from animal waste or materials being composted, and may contain soluble, suspended, or mixable materials removed from the source material.

"Operator" means the owner and person responsible for the management of ~~each~~the facility.

"Source material" means material used as the main organic source to be converted by ~~the process~~thermophilic conditions into compost and may include but not be limited to manure and other animal waste.

35:17-9-3. Permit provisions and application [AMENDED]

(a) Prior to operation, any person using any source materials within the Department's jurisdictional areas of environmental responsibility to produce compost shall obtain a permit to operate the facility from the Department.

(b) The permit shall be renewed every five (5) years on October 1.

(c) The application for a compost facility shall contain, as a minimum, the following information:

(1) Name, address, ~~and~~ telephone number, and email address of the owner;

(2) Name, address, and county of the facility, including ~~specific driving directions from the nearest municipality, and legal description of the facility to the nearest ten (10) acres~~ the Global Positioning System (GPS) coordinates to the entry of the facility;

(3) Name, address, and telephone number of the operator, if other than the owner;

(4) ~~Narrative describing~~A description of the proposed compost facility purpose of the facility.

(5) A composting plan that shall include but not be limited to the following:

(A) Source materials proposed for use and the estimated amount of compost produced per ~~month or per~~ year;

(B) Proposed type of composting process or processes to be used at the facility, ~~including~~which may include windrow, static pile, or in vessel composting method;

(C) Characterization of the physical and environmental setup of the facility, including but not limited to the following:

(i) Description of topography using a current 7.5 minutes topographic map highlighting the location of waters of the state within three (3) miles of the facility, an outline of the watershed drainage area with arrows indicating general direction of surface water drainage from the facility;

(ii) Soil map showing soil types at the facility; and

(iii) 100-year flood plain map.

(D) Laboratory test reports showing the amount of nitrogen as nitrate and total phosphorus contained in waters of the state at the facility, including but not limited to groundwater from all existing wells and surface impoundments located on the site.
(E) Design drawings and specifications for:
(i) receiving, processing, storage, disposal, or reuse areas;
(ii) leachate collection systems;
(iii) storage, treatment, and disposal of leachate and sludge;
(iv) storm water drainage;
(v) protection of groundwater from leachate;
(vi) any other design drawings and specifications necessary to describe the proposed operations of the facility.
(F) Proposed operational parameters.
(G) Site layout and construction.
(H) Best management practices used at the site for erosion control, water pollution control, odor control, storage of the source materials, storage of the finished compost, and aesthetic enhancement. Best management practices shall be utilized to ensure environmental hazards are avoided and operations do not create nuisance conditions, including blowing of dust or waste, odor, pest, or attraction of vermin creating public health concerns or erosion.
(I) A notarized sworn statement signed by the owner accepting full responsibility for properly closing the facility upon termination of operation at the facility.
(J) A notarized certification signed by the person applying for the permit, stating: "I certify under penalty of law this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for knowingly submitting false, inaccurate, or incomplete information, including the possibility of fines for each violation."
(K) Supporting documentation regarding composting method used, including compost mix design, selection of C:N ratio, determining bulking agent need, aeration method, and moisture content and temperature to be maintained.
(L) All other documentation deemed necessary and requested by the Department to assure the quality of waters of the state is not compromised, and any other information required by the Department directly related to the construction, installation and operation of the facility.

(d) The application for a new facility or a renewal shall be accompanied by an application fee of Two Hundred Dollars ($200.00).
(e) The operator of a facility shall notify the Department in writing that the facility is no longer in operation within thirty (30) days of the cessation of operation.
(f) The Department shall require closure of any facility under the following circumstances:
(1) The operator of the facility notifies the Department that the facility is no longer in operation.
(2) The facility has not accepted source material nor produced compost for a period of six (6) months.
(3) The facility is ordered to close by the Board due to failure to operate in compliance with any provision of the Agriculture Code or rules of the Board.
(g) A compost permit shall not be transferred.
(1) Upon sale of a compost facility, the new owner shall submit a new application and fee within thirty (30) days of the final sale.
(2) The former owner shall provide written notice of sale at least ten (10) days prior to finalization of the sale along with a written statement identifying plans to close or transfer the total retention storage structure.
(3) If the new owner agrees to take over responsibility of the total retention storage structure, as outlined in OAC 17-9-9(d), a signed, notarized agreement by both parties shall be submitted to the Department prior to the sale.

35:17-9-4. Siting of composting facility [AMENDED]

(a) The following factors shall be considered in the selection of a site for the facility:
(1) Prevailing wind direction and proximity to occupied residences;
(2) Topography of the facility location, including avoiding locating the facility on steep slopes ~~or within the 100-year flood plain~~; or

(3) Ground and surface water protection.
(b) The Department may conduct a presite inspection of the proposed facility prior to issuing any permit for operation.
(c) The compost facility shall not be located within three hundred (300) feet of a public or private drinking water well.
(d) The compost facility shall not be located within the 100-year flood plain.
(e) The composting and storage areas shall not be located with fifty (50) feet of the property boundaries.
(f) The compost facility shall not be located within 100 feet of a downgradient perennial stream as defined on a current 7.5 minute topographic map.
(g) The compost facility shall not be located with fifty (50) feet of a downgradient intermittent stream as defined on a current 7.5 minute topographic map.

35:17-9-6. Leachate and storm water control [AMENDED]
(a) The owner or operator shall provide a total retention storage structure or vegetative filter that is of sufficient size to contain or filter all leachate and contaminated storm water~~, the 100 year/24 hour storm event, and maintain one foot of free board~~.
(b) If a total retention storage structure is required by the Department, the owner shall ensure:
(1) The waste retention structure shall have the volume to store runoff from a 100 year/ 24 hour storm event,
(2) One foot of freeboard is maintained, and
(3) ~~The owner or operator shall construct a~~A permanent marker that identifies the levels of the 100 year/24 hour storm event volume, the one foot of free board, and the bottom of spillway is constructed.
(c) The owner or operator shall provide a drainage system for storm water that prevents erosion at the facility.
(d) The owner or operator shall prevent contact between uncontaminated storm water and source material, composting amendment, composting mix, and final product isolating the material from surface drainage through the use of covers, ditches, dikes, berms, terraces, or other control structures.

35:17-9-9. Closure of licensed compost facility retention structures [AMENDED]
(a) The owner of a ~~leachate retention structure~~facility shall notify the Department ~~if the owner intends~~at least thirty (30) days in advance in writing if they intend to permanently cease operations of the ~~structure~~facility for any reason, including but not limited to, compliance with orders of the Board of Agriculture.
(b) A ~~leachate retention structure~~facility that temporarily ceases operations for longer than six (6) months but otherwise remains in full compliance with ~~its license~~these rules shall not be considered permanently closed if written notice is provided to the Department prior to six (6) months of ceasing operations.
~~(b) Closure requirements of leachate retention structures shall be based on site specific conditions, as follows:~~
~~(1) The owner shall notify the Department in writing whenever a leachate retention structure is abandoned or permanently ceases operations for any reason. The Department shall consider a leachate retention structure is abandoned or has permanently ceased operations if:~~
~~(A) The leachate retention structure is closed by order of the Department; or~~
~~(B) The owner is unable to furnish documents showing receipt of compost material into the leachate retention structure during the previous twenty-four (24) months and the owner is not maintaining the retention structure in compliance with the applicable rules or plans approved by the Department.~~
(c) In the event of permanently ceasing operations or abandonment of the facility, the owner shall still be responsible for closure of any waste retention structure by ensuring the following:
~~(2)~~(1) Liquid contents of ~~a leachate~~total retention storage structure ~~may~~ shall be pumped out and land applied according to Department ~~rules~~ requirements.
~~(3)~~(2) Solids from the ~~leachate~~ total retention storage structure shall be removed and disposed of in an environmentally safe manner.
~~(4)~~(3) Sludge from the bottom of the ~~leachate~~total retention storage structure shall be removed without compromising the integrity of the liner. Sludge may be land applied according to Department ~~rules~~requirements.
~~(5)~~(4) The owner shall grid sample soil from the bottom of the leachate retention structure and have the samples analyzed in a State certified laboratory for nitrate-nitrogen, total phosphorous, and electrical conductance.
~~(6)~~(5) The owner shall develop a plan, subject to Department approval, regarding soil removal, if necessary, based on the grid sample data.
~~(7)~~(6) If soil is to be removed from the bottom of the ~~leachate~~total retention storage structure, it shall be managed in an environmentally safe manner approved by the Department. Management options may include, but are not limited to, land application, disposal, and reuse.

~~(8)~~(7) ~~The Department may require monitoring wells if~~If evidence indicates that contamination has migrated to the groundwater based on site specific conditions, monitoring wells shall be installed as required by the Department.

~~(9)~~(8) In the event a total retention storage structure requires closure or replacement in other than a permanently ceasing operations event, written notice shall be submitted to the Department prior to closure and shall follow the requirements of this section.

(d) An owner may seek an exemption from the closure obligations of this subsection or transfer the responsibility for a ~~leachate waste~~total retention storage structure to another party. A written request and approval by the Department are required for an owner to be exempt from closure obligations of this subsection or to transfer the responsibility for a ~~leachate waste~~total retention storage structure to any other party.

[OAR Docket #24-669; filed 6-26-24]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 20. FORESTRY

[OAR Docket #24-671]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Rural Fire Protection Program Fund Act
Part 5. MATCHING GRANT PROGRAM
35:20-3-22. Matching grant limitations [AMENDED]
AUTHORITY:
Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2) and (20); and 2 O.S. § 16-10 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2023
COMMENT PERIOD:
December 2, 2023 through January 4, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 26, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rule amendment increases the maximum dollar amount for the state's share of projects funded under the matching grant programs.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. RURAL FIRE PROTECTION PROGRAM FUND ACT

PART 5. MATCHING GRANT PROGRAM

35:20-3-22. Matching grant limitations [AMENDED]
(a) The maximum state share of projects funded under the matching grant programs shall be as follows:
(1) The eighty percent (80%) state share for fire-related equipment shall not exceed ~~twenty~~thirty-five thousand dollars ~~($20,000)~~($35,000).
(2) The eighty percent (80%) state share for fire station construction or improvements shall not exceed ~~thirty~~seventy-five thousand dollars ~~($30,000)~~ ($75,000).
(b) Applicants for state matching grant program funds may not apply for both an equipment grant and a fire station grant in the same funding period.
(c) State matching grant program funds may be expended for the purchase or maintenance of fire related equipment and the construction or improvement of structures suitable for fire stations. Applicants shall certify on the application form that the conditions in this section are met when applying for grants for facilities.
(1) No matching grant program funds may be expended or obligated for the purchase of land or construction of fire stations unless all obligations previously incurred for such purposes and to be paid from matching grant program funds have been fully paid and satisfied.
(2) No matching grant program funds shall be expended or obligated for the construction of fire stations unless the eligible participant holds fee simple title, not encumbered by any lien, or holds a lease for a period of not less than ten (10) years, with provisions for renewal of the lease annually, to the land on which it proposes to construct the building. This provision shall not prohibit construction or location of a fire station on land donated in whole or in part for the purpose, and use of matching grant program funds for construction where the donor has reserved right of reversion of such land under stated conditions, if such use is reasonable and appropriate as determined by the Department and the Rural Fire Coordinators.
(3) Matching grant program funds shall be expended under the direction of the chief of the fire department upon duly executed vouchers approved as required by law.

[OAR Docket #24-671; filed 6-26-24]

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

[OAR Docket #24-674]

RULEMAKING ACTION:
PERMANENT final adoption

RULES:

Subchapter 4. Thousand Cankers Disease [REVOKED]
35:30-4-1. Establishment of quarantine [REVOKED]
35:30-4-2. Regulated area [REVOKED]
35:30-4-3. Regulated articles [REVOKED]
35:30-4-4. Conditions governing movement [REVOKED]
35:30-4-5. Movement for scientific purposes [REVOKED]
Subchapter 6. Emerald Ash Borer Quarantine [REVOKED]
35:30-6-1. Establishment of quarantine [REVOKED]
35:30-6-2. Regulated area [REVOKED]
35:30-6-3. Regulated articles [REVOKED]
35:30-6-4. Conditions governing movement [REVOKED]
35:30-6-5. Movement for scientific purposes [REVOKED]
Subchapter 13. Imported Fire Ant Quarantine
35:30-13-3. Regulated area [AMENDED]
Subchapter 17. Combined Pesticide
Part 1. COMMERCIAL ~~AND NON-COMMERCIAL~~, NON-COMMERCIAL, AND PRIVATE CATEGORIES OF PESTICIDE APPLICATION [AMENDED]
35:30-17-1. License and Certification Categories [AMENDED]
35:30-17-1.2. Schedule of combined pesticide program fees [AMENDED]
35:30-17-1.3. Commercial pesticide applicator license renewal [AMENDED]
Part 6. PESTICIDAL PRODUCT PRODUCING ESTABLISHMENTS
35:30-17-13. Incorporation by reference of federal pesticide producing establishment regulations [AMENDED]
Part 9. MINIMUM STANDARDS FOR CONTRACTS AND KEEPING OF RECORDS
35:30-17-21. Records required for pesticide applications and restricted use pesticide sales [AMENDED]
Part 12. MINIMUM RESIDUE LEVELS FOR TERMITICIDES APPLIED TO SOIL AND PERMITTED TOLERANCES FOR PESTICIDE TANK MIX AND CONCENTRATE SAMPLE ANALYSIS
35:30-17-28. Soil residue levels, parts per million (ppm) [AMENDED]
Part 18. MINIMUM STANDARDS FOR THE USE OF TERMITE BAITS AND BAITING SYSTEMS FOR NEW CONSTRUCTION AND EXISTING STRUCTURES
35:30-17-75.1. General requirements for application [AMENDED]
Part 21. STANDARDS FOR DISPOSAL OF PESTICIDE AND PESTICIDE CONTAINERS
35:30-17-89.1. Incorporation by reference of federal pesticide management and disposal regulations [AMENDED]
35:30-17-93. Handling pesticide containers by commercial applicators [AMENDED]
Subchapter 24. Oklahoma Industrial Hemp Program
35:30-24-2. Definitions [AMENDED]
35:30-24-3. Application [AMENDED]
35:30-24-5.3. Establishing records with USDA Farm Service Agency [AMENDED]
35:30-24-6. Continuing obligation to provide information [AMENDED]
35:30-24-11. Inspection and testing [AMENDED]
35:30-24-13. Destruction [AMENDED]
Subchapter 30. Soil Amendment
35:30-30-3. Contents of the label [AMENDED]
Subchapter 31. Lime
35:30-31-4. Schedule of ag-lime program fees [AMENDED]

AUTHORITY:

Okla. Const., Art. 6, § 31; 2 O.S. § 2-4(A)(2); State Board of Agriculture; 2 O.S. § 3-81 et seq.; 2 O.S. § 3-401 et seq.; 2 O.S. § 8-85.1 et seq.; and 2 O.S. § 8-77.1 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

November 7, 2023

COMMENT PERIOD:

December 1, 2023 through January 4, 2024

PUBLIC HEARING:

January 4, 2024

ADOPTION:

January 25, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 26, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rule amendments revokes thousand cankers disease and emerald ash borer quarantine; adds Haskell county to the regulated are for fire ants; adds additional categories to pesticide license and adds a certification; adds additional language for pesticide licenses that expire on September 30th of each year and adds businesses that start with numbers for the license renewal; updates references to the Code of Federal Regulation; adds certification numbers and expiration dates to records that must be kept accurate for pesticide applicators; adds new language for proof of training for a service technician; adds language to the residue threshold to include generic pesticide mixes; update language for the Oklahoma Industrial Hemp Program to comply with USDA requirements; removes the requirement for percentage of inert ingredients for soil amendments; and adds language for the revocation of registrations for lime.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 4. THOUSAND CANKERS DISEASE [REVOKED]

35:30-4-1. Establishment of quarantine [REVOKED]
~~The State Board of Agriculture does hereby establish a quarantine for thousand cankers disease of walnut exterior.~~

35:30-4-2. Regulated area [REVOKED]
~~Regulated articles from the entire states of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and any other state or foreign country known to be infested with thousand cankers disease of walnut exterior shall be quarantined.~~

35:30-4-3. Regulated articles [REVOKED]

~~The following shall be regulated pursuant to this quarantine:~~

~~(1) All plant and plant parts of the genus Juglans including but not limited to nursery stock, budwood, scionwood, green lumber, and other living, dead, cut, or fallen, including logs, boards, firewood, stumps, burls, roots, branches, bark, mulch, chips, and lumber for wood packing material;~~

~~(2) All life states of the walnut twig beetle (Pityophthorus juglandis); and~~

~~(3) The fungal pathogen Geosmithia morbida sp. nov.~~

35:30-4-4. Conditions governing movement [REVOKED]

~~(a) All regulated articles originating from quarantined areas are prohibited entry into or transition through the State of Oklahoma unless accompanied by a phytosanitary certificate from the state of origin declaring, 'The article was officially inspected after harvest and found free of the fungus Geosmithia, the walnut twig beetle, and bark, and the articles were stored in such a manner to remain free of the walnut twig beetle in storage and transit.'~~

~~(b) Regulated articles originating in an area not known to have thousand cankers disease but in transit through an area known to have thousand cankers disease shall be regulated articles.~~

~~(c) Regulated articles to be used for research purposes may move pursuant to a compliance agreement with the Oklahoma Department of Agriculture, Food, and Forestry.~~

35:30-4-5. Movement for scientific purposes [REVOKED]

~~Interstate and intrastate movement of regulated articles and all living stages of the walnut twig beetle (Pityophthorus juglandis) and the thousand canker disease fungal pathogen, Geosmithia morbida sp. nov., for scientific or experimental purposes may move under a compliance agreement and scientific permit.~~

SUBCHAPTER 6. EMERALD ASH BORER QUARANTINE [REVOKED]

35:30-6-1. Establishment of quarantine [REVOKED]

~~The State Board of Agriculture does hereby establish a quarantine for emerald ash borer, *Agrilus planipennis.*~~

35:30-6-2. Regulated area [REVOKED]

~~Regulated articles from Delaware County, Oklahoma, and any other counties, states or foreign country known to be infested with emerald ash borer shall be quarantined.~~

35:30-6-3. Regulated articles [REVOKED]

~~The following shall be regulated pursuant to this quarantine:~~

~~(1) Emerald ash borer, *Agrilus planipennis*;~~

~~(2) Firewood of all hardwood (non-coniferous) tree species;~~

~~(3) Nursery stock, green lumber, and other living, dead, cut, or fallen material,including logs, stumps, roots, branches, mulch, and both composted and uncomposted chips of the genus *Fraxinus* (ash); and~~

~~(4) Any other article, product, or means of conveyance not listed in this section may be designated as a regulated if determined by the Oklahoma Department of Agriculture, Food, and Forestry to present a risk of spreading emerald ash borer.~~

35:30-6-4. Conditions governing movement [REVOKED]

~~(a) All regulated articles originating from quarantined areas shall be prohibited entry to any destination outside the quarantined area.~~

~~(b) Regulated articles originating in an area not known to have emerald ash borer but transiting through an area known to have emerald ash borer shall be considered to be regulated articles. The point of origin shall be indicated on shipping documents and accompanied by a certificate of inspection for this pest.~~

35:30-6-5. Movement for scientific purposes [REVOKED]

~~Interstate and intrastate movement of regulated articles and all living stages of the emerald ash borer, *Agriculus planipennis*, for scientific or experimental purposes shall only move under a compliance agreement and scientific permit.~~

SUBCHAPTER 13. IMPORTED FIRE ANT QUARANTINE

35:30-13-3. Regulated area [AMENDED]

Imported Fire Ant regulated areas are the Oklahoma counties of:

(1) Bryan Jefferson, and McCurtain (1986);
(2) Marshall (Additional Infested Area 1987);
(3) Carter, Choctaw, Comanche, Johnston, and Love;
(4) LeFlore, Pushmataha, Atoka, Coal, Pontotoc, Garvin, Murray, Stephens, Jefferson, Cotton, Tillman, and Jackson;
(5) Latimer (2017); ~~and~~
(6) Pittsburgh (2020)~~.~~; and
(7) Haskell (2024).

SUBCHAPTER 17. COMBINED PESTICIDE

PART 1. COMMERCIAL ~~AND NON-COMMERCIAL~~, NON-COMMERCIAL, AND PRIVATE CATEGORIES OF PESTICIDE APPLICATION [AMENDED]

35:30-17-1. License and Certification Categories [AMENDED]

License and certification categories of pesticide application shall comply with the category specific competency standards of 40 CFR 171.103(d) and 40 CFR 171.105(a) as referenced in sections 6 and 7 of the state certification and training plan and are as follows:

(1) 1a: Agricultural Plant Category - Includes the application of pesticides to agricultural crops, agricultural grassland, and noncrop agricultural land. This category does not include the production of trees for any purpose.
(2) 1b: Agricultural Animal Category - Includes the application of pesticides to animals, including those in feedlots, sales barns, egg production facilities and the animal holding facilities. This excludes Doctors of Veterinary Medicine applying pesticides as drugs or medication during the course of their normal practice.
(3) 2: Forest Pest Control Category - Includes the application of pesticides in forest nurseries, forest seed production areas, trees grown for the production of forestry products, and other forest areas.
(4) 3a: Ornamental and Turf Outdoor Pest Control Category - Includes the application of pesticides within residential or business areas to lawns, ornamental trees and shrubs, including park areas, golf courses, and other recreational areas,~~,~~ except as defined under licensed categories 2, 3b-c, 7, and 8.
(5) 3b: Interiorscape Category - Includes the application of pesticides to interior plantings inside structures (i.e. hospitals, buildings, shopping malls, etc.) excluding residential structures with the exception of common use areas of multiple residential structures (i.e. foyers, atriums, indoor swimming pools, management offices, meeting rooms, etc.) except as defined under licensed categories 3c, 7, and 8.
(6) 3c: Nursery/Greenhouse Category - Includes the application of pesticides in nursery and greenhouse facilities and to fields except as defined under licensed categories 2 (Forest Pest Control).
(7) 4: Seed Treatment Category - Includes the application of pesticides to seed for any purpose.
(8) 5: Aquatic Pest Control Category - Includes the application of pesticides to standing or running water in man-made or natural impoundments, streams, etc. This excludes public health activities (e.g. mosquito control) and water in totally closed systems.
(9) 6: Right-of-Way Category - Includes the application of pesticides for public road maintenance, power line maintenance, railroad right-of-way, storage tank areas, and other similar areas.
(10) 7a: General Pest Control Category - Includes the application of pesticides within and immediately adjacent to a structure, except for fumigation activities, control of termites and other wood destroying organisms in or on a structure, and control of birds or predatory animals. "Immediately adjacent to a structure" means not further than three (3) feet from the structure. Applications to restaurants are permitted in this category.
(11) 7b: Structural Pest Control Category - The application of pesticides for the purpose of controlling termites and other wood destroying organisms in or on a structure, including wood borers and fungus.
(12) 7c: Fumigation Category - The use of liberated gas within a structure or storage area, to include railcars, ships, etc., or the application of fumigants to soil.
(13) 8: Public Health Pest Control Category - The application of pesticides by local, state, federal or other governmental employees or commercial pesticide applicators in public health programs, to include municipal and other areawide mosquito control programs.
(14) 9: Regulatory Pest Control Category - Includes the application of pesticides by state, federal or other government employees for the control of designated regulated pests.

(15) 10: Demonstration and Research Pest Control Category - Includes persons engaged in the application of pesticides for scientific research or for the purpose of demonstrating pesticide products or methods of application.
(16) 11a: Bird and Vertebrate Animal Pests Control Category - The application of pesticides for the control of birds or vertebrate animals pests and subject to the rules of the Oklahoma Department of Wildlife Conservation and the Wildlife Services Division of the Board.
(17) 11b: Predatory Animal Control Category - The application of pesticides for the control of predatory animals and subject to the rules of the Oklahoma Department of Wildlife Conservation, and the Wildlife Services Division of the Board.
(18) 12a: Pressure Facility Timber Treating Category - Includes the treatment of wood in a pressure treating facility by the impregnation or application of chemical solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.
(19) 12b: Ground Line Utility Pole Timber Treating Category - Includes the ground line treatment of utility poles with chemical solutions for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.
(20) 12c: Construction Industry Timber Treating Category - Includes the application of chemical solutions to wood members of structure which will be covered by paint, varnish, or similar covering for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.
(21) 12d: Home Owner Timber Treating Category - Includes the application of chemical solutions to wood constructions around the home, including decks, for the purpose of retarding or preventing deterioration or destruction by insects, fungi, bacteria, or other wood destroying organisms.
(22) 13: Antimicrobial Category - Includes applications of an antimicrobial pesticide intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms or protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime.
(23) 14: Specialty Category - Includes any area of pesticide application not defined in Category 1 thru ~~12~~13 when the pesticide to be used is classified as restricted.
(24) 15: Aerial Category - The use of a pesticide applied by aircraft to any crop or site. In addition to certification in this category, certification in one or more of the appropriate use categories is required.
(25) 16: Private Applicator Category- 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.

(A) Private Applicator Fumigation Category - The use of liberated gas within a structure or storage area, to include railcars, ships, etc., or the application of fumigants to soil.
(B) Private Applicator Aerial Category - The use of a pesticide applied by aircraft to any crop or site. In addition to certification in this category, certification in one or more of the appropriate use categories is required.

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

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

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

~~(5)~~(6) For licenses that expire on December 31st of each year, ~~F~~failure to remit a commercial or non-commercial applicator license renewal fee by the 1st day of January shall result in a penalty of twice the amount of the license renewal fee, and after the 1st day of February shall also result in an additional One Hundred Dollar ($100) penalty which shall be paid prior to license renewal.

(b) The issuance and annual registration fees for each pesticide and device label shall be as follows:

(1) Pesticide - Two Hundred Ten Dollars ($210.00) each.

(2) Device - Two Hundred Ten Dollars ($210.00) each.

(3) Failure to remit the registration fees for pesticides and devices by the 15th of the month following the month of expiration shall result in a penalty of twice the amount of the renewal fee.

(c) The annual permit fee for a restricted use pesticide dealer shall be Fifty Dollars ($50.00) for each location. Failure to remit the permit fee by the 15th of the month following the month of expiration shall result in a penalty of twice the amount of the renewal fee.

(d) The fee for each written examination or practical conducted for the combined pesticide program shall be as follows:

(1) Written examination - Fifty Dollars ($50.00).

(2) Practical conducted - Fifty Dollars ($50.00).

(e) Applicator certification fees shall be as follows:

(1) Re-certification procedure - Fifty Dollars ($50.00) for each.

(2) Reciprocal certification procedure - One Hundred Dollars ($100.00) for each.

(f) Identification card fees shall be as follows:

(1) Service technician - Twenty Dollars ($20.00) each.

(2) Certified applicator - No charge.

(3) Duplicate issue or transfers - Ten Dollars ($10.00) each.

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

(1) All permits for pesticide producer establishments shall be issued for a period of one (1) year and shall be renewed annually.

(2) All permits shall expire on June 30 each year and may be renewed without penalty upon filing of a properly completed application not later than the fifteenth day of the month first following the date of expiration.

(3) If the application is not received by that date, a penalty of twice the amount of the renewal fee shall be charged for renewal of the permit.

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

35:30-17-1.3. Commercial pesticide applicator license renewal [AMENDED]

(a) Each license for commercial pesticide application for companies with names beginning with a number or with the letters A, B, C, D, E, F, G, H, I, J, K, and L shall expire on the 30th day of September following issuance or renewal, and may be renewed for the ensuing calendar year, without penalty or reexamination if a properly completed application is filed with the Board not later than the 1st day of October of each year. If the application is not received by October 1, a penalty of twice the amount of the renewal fee shall be charged for renewal of the license. If the application is not received by November 1, an additional penalty of One Hundred Dollars ($100.00) shall be paid by the applicant prior to license renewal.

(b) Each license for commercial pesticide application for companies with names beginning with the letters M, N, O, P, Q, R, S, T, U, V, W, X, Y, and Z shall expire on the 31st day of December following issuance or renewal, and may be renewed for the ensuing calendar year, without penalty or reexamination if a properly completed application is filed with the Board not later than the 1st day of January of each year. If the application is not received by January 1, a penalty of twice the amount of the renewal fee shall be charged for renewal of the license. If the application is not received by February 1, an additional penalty of One Hundred Dollars ($100.00) shall be paid by the applicant prior to license renewal.

PART 6. PESTICIDAL PRODUCT PRODUCING ESTABLISHMENTS

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

(a) The Registration of Pesticide and Active Ingredient Producing Establishments, Submission of Pesticide Reports and Books and Records of Pesticide Production and Distribution Regulations found in Title 40 of the Code of Federal Regulations (CFR) (~~2021~~2023 Revision), Part 167 et seq. and Part 169 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of 40 CFR § 167.90.
(b) All words or terms defined or used in the Federal regulations incorporated by reference shall mean the state equivalent or counterpart to those words or terms.

PART 9. MINIMUM STANDARDS FOR CONTRACTS AND KEEPING OF RECORDS

35:30-17-21. Records required for pesticide applications and restricted use pesticide sales [AMENDED]
(a) Commercial and non-commercial applicators shall keep accurate records pertaining to pesticide activities, which, at a minimum, show:
(1) Start and stop time of application.
(2) Total amount of pesticide used.
(3) Name and address of the commercial or non-commercial company.
(4) Name, certification number, and certification expiration date ~~number~~ of the certified applicator who made or supervised the application and name of the non-certified applicator under direct supervision, if any.
(5) Name and address of person for whom applied.
(6) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
(7) Date of application.
(8) Application rate.
(9) Dilution rate for mixing.
(10) Total quantity tank mix used.
(11) Complete trade name of pesticide product used.
(12) EPA registration number of pesticide product used.
(13) Name of adjuvants used when the label requires specific adjuvants.
(14) Name of drifting agents used when the label requires specific drifting agents.
(15) Target pest for the application.
(16) Site where the pesticide was applied.
(17) Size of the area treated.
(18) Restricted Entry Interval as stated on the product label.
(19) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
(20) Copies of any contracts issued.
(21) Copies of any wood infestation reports issued.
(22) Other information as required by the Board.
(b) Private applicators of restricted use pesticides shall keep accurate records pertaining to applications, which, at a minimum, show:
(1) Start and stop time of application.
(2) Total amount of pesticide used.
(3) Name and address of the private applicator.
(4) Name, certification number, and certification expiration date ~~number~~ of the certified applicator who made or supervised the application and name of the non-certified applicator under direct supervision, if any.
(5) Legal description of the land where applied. The legal description may be a street address if properly marked, but shall not be a Post Office Box address.
(6) Date of application.
(7) Application rate.
(8) Dilution rate for mixing.
(9) Total quantity tank mix used.
(10) Complete trade name of pesticide product used.
(11) EPA registration number of pesticide product used.
(12) Name of adjuvants used when the label requires specific adjuvants.
(13) Name of drifting agents used when the label requires specific drifting agents.
(14) Target pest for the application.

(15) Site where the pesticide was applied.
(16) Size of the area treated.
(17) Restricted Entry Interval as stated on the product label.
(18) A copy of the pesticide product label or labeling that is attached to the container or included in the shipping case.
(19) Other information as required by the Board.

(c) Restricted use pesticide dealers shall keep accurate records of restricted use pesticide sales, which, at a minimum show:
(1) Complete brand name of the pesticide.
(2) EPA registration number of the pesticide.
(3) Date the pesticide was sold.
(4) Total amount of restricted use pesticide sold.
(5) Name and address of the residence or principal place of business of any person to whom the restricted use pesticide was distributed or sold for application by a certified applicator.
(6) Name, address, license or certification number, and certification expiration date, or copy of the applicator's card of a certified or private applicator.
(7) The category(ies) in which the applicator is certified relevant to the pesticide(s) sold.
~~(7)~~(8) Other information as required by the Board.

(d) Failure to allow inspection of records by the Board, to provide copies of records to the Board when requested in person, or to provide a summary of records to the Board within seven (7) working days when requested by mail or in person shall be a violation of this section.

(e) Records retained pursuant to this section shall be easily accessible for inspection by authorized agents of the Board during reasonable business hours.

(f) Commercial and non-commercial applicators shall maintain records retained pursuant to this section at their principle place of business. A commercial or non-commercial applicator's principle place of business shall not be located in a closed gated community or at a residence unless the applicator submits a plan of access to the principle place of business and that plan is approved by the Board.

(g) Proof of training for a service technician making termite application shall be recorded by the licensee and available for review by the Department. The training records shall include the following information:
(1) Name;
(2) Date of training; and
(3) Service technician number.

PART 12. MINIMUM RESIDUE LEVELS FOR TERMITICIDES APPLIED TO SOIL AND PERMITTED TOLERANCES FOR PESTICIDE TANK MIX AND CONCENTRATE SAMPLE ANALYSIS

35:30-17-28. Soil residue levels, parts per million (ppm) [AMENDED]

(a) Post construction termiticide treatments with sampling performed within 180 days of treatment shall disclose residue threshold levels established in the vertical barrier for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.
(1) Torpedo and other 25.6 % Permethrin products shall have a residue threshold level of 63 ppm.
(2) Tribute and other 24.5 % Esfenvalerate products shall have a residue threshold level of 150 ppm.
(3) Prevail FT and other 24.8% Cypermethrin products shall have a residue threshold level of 46 ppm.
(4) Demon TC and other 25.3% Cypermethrin products shall have a residue threshold level of 28 ppm.
(5) Dragnet FT and other 36.8% Permethrin products shall have a residue threshold level of 85 ppm.
~~(6) Dursban TC shall have a residue threshold level of 51 ppm.~~
~~(7)~~(6) Premise and other Imidacloprid products shall have a residue threshold level of 10 ppm.
~~(8) Cyren TC shall have a residue threshold level of 51 ppm.~~
~~(9) Navigator 4TC shall have a residue threshold level of 51 ppm.~~
~~(10) Chlorpyrifos Pro Termite Concentrate shall have a residue threshold level of 51 pm.~~
~~(11)~~(7) Termidor WG, ~~and~~ Termidor SC and other Fipronil products shall have a residue threshold level of 12 ppm.
~~(12)~~(8) Cypermethrin G-Pro, EPA Reg. No. 79676-1, and other 24.8% Cypermethrin products shall have a residue threshold level of 46 ppm.

~~(13)~~(9) Permethrin TC, EPA Reg. No. 51036-287, ~~and~~ Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products shall have a residue threshold level of 85 ppm.
~~(14)~~(10) Demon Max Insecticide, EPA Reg. No. 100-1218, and other 25.3% Cypermethrin products shall have a residue threshold level of 28 ppm.
~~(15)~~(11) Talstar One Multi-Insecticide, EPA Reg. No. 279-3206, and other 7.9% Bifenthrin products shall have a residue threshold level of 11 ppm.
~~(16)~~(12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4% Bifenthrin products shall have a residue threshold level of 11 ppm.

(b) Pre-construction termiticide treatments (pre-treats) with sampling performed within 30 days or 180 days of treatment shall disclose residue threshold levels established in the vertical barrier for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.

(1) Torpedo and other 25.6 % Permethrin products:
(A) Shall have a residue threshold level within 30 days of treatment of 90 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 63 ppm.
(2) Tribute and other 24.5 % Esfenvalerate products:
(A) Shall have a residue threshold level within 30 days of treatment of 204 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 150 ppm.
(3) Prevail FT and other 24.8% Cypermethrin products:
(A) Shall have a residue threshold level within 30 days of treatment of 64 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 46 ppm.
(4) Demon TC and other 25.3% Cypermethrin products:
(A) Shall have a residue threshold level within 30 days of treatment of 41 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 28 ppm.
(5) Dragnet FT and other 36.8% Permethrin products:
(A) Shall have a residue threshold level within 30 days of treatment of 97 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 85 ppm.
~~(6) Dursban TC:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 100 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 51 ppm.~~
~~(7)~~(6) Premise and other Imidacloprid products:
(A) Shall have a residue threshold level within 30 days of treatment of 10 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 10 ppm.
~~(8) Cyren TC:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 100 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 51 ppm.~~
~~(9) Navigator 4TC:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 100 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 51 ppm.~~
~~(10) Chlorpyrifos Pro Termite Concentrate:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 100 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 51 ppm~~.
~~(11)~~(7) Termidor WG, ~~and~~ Termidor SC and other Fipronil products:
(A) Shall have a residue threshold level within 30 days of treatment of 12 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 12 ppm.
~~(12)~~(8) Cypermethrin G-Pro, EPA Reg. No. 79676-1, and other 24.8% Cypermethrin products:
(A) Shall have a residue threshold level within thirty (30) days of treatment of 64 ppm.
(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 46 ppm.
~~(13)~~(9) Permethrin TC, EPA Reg. No. 51036-287, ~~and~~ Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products:
(A) Shall have a residue threshold level within thirty (30) days of treatment of 97 ppm.
(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 85 ppm.

~~(14)~~(10) Demon Max Insecticide, EPA Reg. No. 100-1218, and other 25.3% Cypermethrin products:
(A) Shall have a residue threshold level within thirty (30) days of treatment of 41 ppm.
(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 28 ppm.
~~(15)~~(11) TalstarOne Multi-Insecticide, EPA Reg. No. 279-3206, and other 7.9% Bifenthrin products:
(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.
(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.
~~(16)~~(12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4% Bifenthrin products:
(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.
(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

(c) Pre-construction termiticide treatments (pre-treats) with sampling performed within 30 days or 180 days of treatment shall disclose residue threshold levels established in the horizontal barriers for termiticides based on values obtained from research conducted at the U.S. Forest Research Center, Gulfport, Mississippi; Kard et al. 1989; Kard 1991, 1992, 1994, The Bayer Company, Agricultural Division, and the Board may establish interim residue levels for termiticide products for which no lowest expected threshold value exists utilizing input from Oklahoma State University, manufacturers, or industry until a value has been established.

(1) Torpedo and other 25.6 % Permethrin products:
(A) Shall have a residue threshold level within 30 days of treatment of 68 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 47 ppm.
(2) Tribute and other 24.5 % Esfenvalerate products:
(A) Shall have a residue threshold level within 30 days of treatment of 153 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 113 ppm.
(3) Prevail FT and other 24.8% Cypermethrin products:
(A) Shall have a residue threshold level within 30 days of treatment of 48 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 35 ppm.
(4) Demon TC and other 25.3% Cypermethrin products:
(A) Shall have a residue threshold level within 30 days of treatment of 31 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 21 ppm.
(5) Dragnet FT and other 36.8% Permethrin products:
(A) Shall have a residue threshold level within 30 days of treatment of 73 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 64 ppm.
~~(6) Dursban TC:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 75 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 38 ppm.~~
~~(7)~~(6) Premise and other Imidacloprid products:
(A) Shall have a residue threshold level within 30 days of treatment of 5 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 5 ppm.
~~(8) Cyren TC:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 75 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 38 ppm.~~
~~(9) Navigator 4TC:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 75 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 38 ppm.~~
~~(10) Chlorpyrifos Pro Termite Concentrate:~~
~~(A) Shall have a residue threshold level within 30 days of treatment of 75 ppm.~~
~~(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 38 ppm.~~
~~(11)~~(7) Termidor WG, ~~and~~ Termidor SC and other Fipronil products:
(A) Shall have a residue threshold level within 30 days of treatment of 9 ppm.
(B) Shall have a residue threshold level after 30 days and within 180 days of treatment of 9 ppm.
~~(12)~~(8) Cypermethrin G-Pro, EPA Reg. No. 79676-1, and other 24.8% Cypermethrin products:
(A) Shall have a residue threshold level within thirty (30) days of treatment of 48 ppm.
(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 35 ppm.

~~(13)~~(9) Permethrin TC, EPA Reg. No. 51036-287, and Permethrin Pro, EPA Reg. No. 1021-1836, and other 36.8% Permethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 73 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 64 ppm.

~~(14)~~(10) Demon Max Insecticide, EPA Reg. No. 100-1218, and other 25.3% Cypermethrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 31 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 21 ppm.

~~(15)~~(11) TalstarOne Multi-Insecticide, EPA Reg. No. 279-3206, and other 7.9% Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

~~(16)~~(12) Biflex SFR Termiticide/Insecticide, EPA Reg. No. 279-3177, and other 23.4% Bifenthrin products:

(A) Shall have a residue threshold level within thirty (30) days of treatment of 11 ppm.

(B) Shall have a residue threshold level after thirty (30) days and within one hundred eighty (180) days of treatment of 11 ppm.

(d) Any distributor product, as defined by 40 C.F.R. § 152.132, or any product with an alternate brand name and identical registration number shall be subject to the residue threshold levels for the related primary registration or brand name contained in this section.

(e) Any product not listed in this section shall have the residue threshold levels as established either through independent research projects accepted by the Department or through accepted documentation provided to the Department by the manufacturer.

(1) Any residue threshold levels established pursuant to this subsection shall be communicated to the public through the Department's website.

(2) The Department shall maintain a list of all records, studies, and correspondence utilized to establish residue threshold levels pursuant to this subsection.

PART 18. MINIMUM STANDARDS FOR THE USE OF TERMITE BAITS AND BAITING SYSTEMS FOR NEW CONSTRUCTION AND EXISTING STRUCTURES

35:30-17-75.1. General requirements for application [AMENDED]

(a) Commercial and noncommercial applicators applying termite bait or termite baiting systems shall have a valid Oklahoma license in the structural pest category.

(b) Application shall be performed by a certified applicator, certified in the structural pest category or under the terms of "Direct Supervision" as defined in 2 O.S. § 3-81(15).

(c) Any certified applicator or any person working under the supervision of a certified applicator who applies termite bait or termite baiting systems shall be trained in the use of termite baits or termite baiting systems prior to any application. The manufacturer shall give prior notice to the Board of the time, location, and agenda of certification and training programs. The Board may attend and observe certification and training programs. The manufacturer shall identify all trained certified applicators and service technicians in writing to the Board.

(d) A written contract pursuant to 2 O.S. § 3-81(11) and OAC 35:30-17-20 shall be completed prior to a termite bait or termite baiting system application, and shall also include the following:

(1) A term for at least one year with an option for renewal by the parties.

(2) A block for the consumer to initial verifying a consumer information sheet on the termite bait or termite baiting system was provided.

(e) Termite bait or baiting systems may be used as a new construction treatment in place of a preconstruction treatment.

(f) Above-ground bait stations shall be used according to their label when the presence of subterranean termites are detected in a structure. Above-ground bait stations shall be monitored no less than quarterly.

(g) Records of contracts, graphs, monitoring, and bait applications shall be kept according to the minimum standards.

(h) Proof of training for a service technician making termite application shall be recorded by the licensee and available for review by the Department. The training records shall include the following information:

(1) Name;

(2) Date of training; and

(3) Service technician number.

PART 21. STANDARDS FOR DISPOSAL OF PESTICIDE AND PESTICIDE CONTAINERS

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

(a) The Labeling Requirements for Pesticides and Devices, Container Labeling and Pesticide Management and Disposal regulations found in Title 40 of the Code of Federal Regulations (CFR) (~~2021~~2023 Revision), Part 156.140 et seq. and Part 165 et seq. for the United States Environmental Protection Agency (EPA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety.

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

35:30-17-93. Handling pesticide containers by commercial applicators [AMENDED]

The following procedure governs handling of pesticide containers other than bulk pesticide containers by commercial applicators:

(1) Full or partially full containers:

(A) Pesticide containers shall be stored in a secure and locked enclosure.

(B) Pesticide containers shall be free of leaks.

(C) The storage area shall be maintained in good condition without ~~unneccessary~~unnecessary debris.

(D) Storage areas shall be identified by signs.

(2) Empty containers. Empty containers shall be stored in a secured area and kept for no more than ninety (90) days following use.

(3) Metal, glass, and plastic containers :

(A) All metal, glass, and plastic containers shall be triple-rinsed or pressure rinsed immediately after the pesticide is removed by the following or equivalent procedures:

(i) Using water or a detergent as a rinse capable of removing the pesticide, each container shall be filled with rinse equal to approximately ten percent (10%) of the volume of pesticides originally in the container.

(ii) The rinse shall be agitated thoroughly on all interior surfaces of the container. Agitation shall be accomplished by use of agitation equipment approved by the Department or by manual agitation of the rinse.

(iii) The rinsing procedure shall be repeated three times.

(iv) If the rinsate containing the rinse can be used in subsequent applications of the pesticide without reducing the effectiveness of the pesticide, the rinsate may be placed in the containment tank specified for that pesticide. If the rinsate is not classified as a controlled industrial waste upon disposal, it shall be placed in an approved surface impoundment.

(B) Upon completion of the triple-rinsing or pressure rinsing procedures, containers shall be disposed of as follows:

(i) Disposal in any permitted solid waste facility or sanitary landfill so long as all metal and plastic containers are pierced in each end;

(ii) Return, if possible, to the pesticide sales agent or the pesticide manufacturer pursuant to prior agreement; or

(iii) Resale to a third party for recycling or reconditioning.

(C) All pesticides shall be removed from paper and plastic bags to the maximum extent possible when the pesticide is initially mixed for application. Paper and plastic containers shall be disposed of as follows:

(i) Cut all sides of the container and open the container fully, without folds or crevices, on a flat surface. Shake any pesticides remaining in the opened container into the pesticide mix.

(ii) After cutting and flattening the pesticide containers, dispose of containers in a solid waste facility or sanitary landfill.

SUBCHAPTER 24. OKLAHOMA INDUSTRIAL HEMP PROGRAM

35:30-24-2. Definitions [AMENDED]

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

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

"Building" means any single standing structure with walls and a roof but shall not include separate structures connected by corridors or breezeways.

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

"Contiguous field" means any contiguous tract of land used for the cultivation of industrial hemp and may include contiguous tracts of land occasionally intersected by roads, streams, or other natural features but shall not include a tract or tracts of land intersected by property owned by a third party or gaps in the cultivation of industrial hemp exceeding one quarter of a mile.

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

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

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

"Decarboxylated" means the completion of the chemical reaction that converts THC-acid (THCA) into total delta-9-THC, the intoxicating component of cannabis. The decarboxylated value is also calculated using a conversion formula that sums total delta-9-THC and eighty-seven and seven tenths (87.7) percent of THCA. This term, commonly used in scientific references to laboratory procedures, is the precursor to the term "post-decarboxylation," a term used in the 2018 Farm Bill's mandate over cannabis testing methodologies to identify THC concentration levels.

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

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

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

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

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

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

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

"Licensee" means a person who holds a valid Industrial Hemp License to grow industrial hemp under the Oklahoma Industrial Hemp Program. A licensee shall have the ability to remediate noncompliant industrial hemp with a total delta-9 tetrahydrocannabinol concentration of not more than one percent (1.0%) on a dry-weight basis for retesting as set forth by the Department as long as the noncompliant industrial hemp has a total delta-9 tetrahydrocannabinol

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

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

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

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

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

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

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

"USDA" means the United States Department of Agriculture.

35:30-24-3. Application [AMENDED]

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

(1) Not less than thirty (30) days prior to the planting, cultivation, handling, or processing of any industrial hemp crop; or

(2) No later than December 1 if a subsequent license is required to harvest industrial hemp crops planted before December 31 but scheduled for harvest after December 31.

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

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

(1) The name and address of the applicant;

(2) EIN number, if the applicant is a business entity, along with names and email addresses of key participants;

(3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;

(4) If the applicant intends to utilize subcontractors, the correct legal name of the subcontractors along with all aliases or trade names of the subcontractors;

(5) If the applicant intends to utilize subcontractors, the address for the subcontractors' primary business locations and any satellite business offices located in Oklahoma;

(6) If the applicant intends to utilize subcontractors, the contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees of the subcontractor responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp;

(7) Proof of ownership for the cultivation site and the following information if the cultivation site is not wholly owned by the applicant:

(A) The name, address, and contact information for all persons or entities having any ownership interest in the cultivation site;

(B) An original signed, dated, and notarized letter of acknowledgement from each person having any ownership interest in the cultivation site indicating approval for the cultivation of industrial hemp at the cultivation site; and

(C) If applicable, a copy of the property lease for the entire duration of the license;

(8) If the application identifies a contiguous field as the cultivation site:

(A) A legal description (Section, Township, Range) of the contiguous field;

(B) The global positioning location coordinates at the approximate center of the contiguous field; and

(C) An annotated map or aerial photograph with sufficient detail and clarity to define the boundaries and dimensions of the contiguous field in acres, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the contiguous field along with a description of the variety of industrial hemp corresponding to each growing area;

(9) If the application identifies a building as the cultivation site:

(A) The physical address of the building;

(B) The global positioning location coordinates of the building; and

(C) An annotated map or blueprint with sufficient detail and clarity to show the boundaries and dimensions of the building and growing area in square feet, and, if applicable, the locations, boundaries, and dimensions of different growing areas within the building along with a description of the variety of industrial hemp corresponding to each growing area;

(10) A description of any areas used to store or process plants or plant parts, including but not limited to:

(A) The physical address or location of any storage areas or processing areas;

(B) The global positioning location coordinates of any storage areas or processing areas; and

(C) An annotated map or blueprint with sufficient detail and clarity to show the location, boundaries and dimensions of any storage areas or processing areas in square feet;

(11) A schedule identifying the intended dates of planting and intended dates of harvesting any industrial hemp crop or crops;

(12) A statement of intended use and disposition for the industrial hemp harvested from the cultivation site or any plant parts thereof;

(13) A notarized and sworn statement from an official or employee of the applicant and from an official or employee of any associated subcontractor that only industrial hemp seed will be planted at the cultivation site; and

(14) Acknowledgement and agreement with the following terms and conditions:

(A) Any information provided by the applicant or subcontractors shall be subject to public disclosure under the Open Records Act;

(B) Any information provided by the applicant or subcontractors may be released by the Department to law enforcement agencies without notice to the applicant or its subcontractors;

(C) The applicant and subcontractors shall fully cooperate with the Department, grant the Department physical access to any part of the cultivation site and allow the Department to conduct inspection and sampling; and

(D) The applicant and subcontractors shall submit all required reports by the dates specified by the Department.

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

(d) The application for a processor/ handlers license shall be on a form provided by the Department and shall, at a minimum, contain the following information:

(1) The name and address of the applicant;

(2) EIN number, if the applicant is a business entity, along with the names and email addresses of key participants; and

(3) The contact information, including but not limited to, names, phone numbers, and email addresses, for any officials or employees responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the processing or handling of industrial hemp.

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

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

(f) Incomplete applications shall not be processed by the Department and any associated application fees shall be retained by the Department.
(g) Applications that are denied by the Department may be resubmitted within twelve (12) months of the original filing. The Department may waive application fees for resubmitted applications.
(h) Any person, eighteen (18) years of age or older, or business entity that intends to conduct research using industrial hemp shall submit a summary of the research that will be conducted with the application to the Oklahoma Department of Agriculture, Food, and Forestry for approval.

35:30-24-5.3. Establishing records with USDA Farm Service Agency [AMENDED]

Licensees shall report industrial hemp crop acreage or square footage to the USDA Farm Service Agency ("FSA") and shall provide the FSA, at a minimum, the following information:

(1) ~~Street address and, to the extent practicable, geospatial location for each lot, greenhouse, or indoor growing structure where industrial hemp will be produced. If an applicant operates in more than one location, information shall be provided for all production sites~~ FSA-578 Report;
(2) ~~Acreage or square footage for each lot, greenhouse, or indoor growing structure dedicated to the production of industrial hemp~~Name of the producer, which must match the name on the hemp license;
(3) ~~License number~~ Acreage report that includes the producer's license number;
(4) ~~Total acreage or square footage of industrial hemp planted, harvested, and destroyed~~ Location and number of lots intended to be planted; and
(5) ~~Any changes to the information provided shall be reported within thirty (30) days to USDA Farm Service Agency.~~Each variety or strain must be reported as a separate lot;
(6) Research lots may be grown for research purposes only;
(7) Research lots will report the average planting date if field was planted over several days;
(8) Greenhouse, Warehouse, or similar indoor facility must follow the same guidance as traditional growers. They must report: location, subfield(s), and planting date(s) for all varieties and end-uses; and
(9) Crops used for propagation purposes to sell to other producers will report the crop using Se as the intended use when it is seeded in the greenhouse or similar facility. Crop may be reported using the same method as a research grower.

35:30-24-6. Continuing obligation to provide information [AMENDED]

(a) Every licensee shall have a continuing obligation to provide current information to the Department and FSA. The licensee shall provide updated information if there is any material change to the information provided in the application within ten (10) days of the material change unless otherwise specified herein, including but not limited to, changes in personnel or contact information.
(b) The licensee shall file an amendment to the licensee's application with the Department and FSA not less than thirty (30) days prior to making any alteration to boundaries, dimensions, or growing areas of a cultivation site or a change in the variety of industrial hemp cultivated.
(c) The licensee shall immediately notify the Department and FSA of any change to the planting and harvesting schedule exceeding five (5) days from the planting and harvesting schedule listed in the application.
(d) The employment of a new subcontractor or replacement of an existing subcontractor associated with a license for a particular cultivation site shall require the submission of a new application and the payment of new application and inspection fees by the licensee.

35:30-24-11. Inspection and testing [AMENDED]

(a) The Department shall utilize an evidence gathering methodology approved by the United States Department of Agriculture for the inspection of cultivation sites and the collection of industrial hemp test samples.
(b) ~~Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) shall be conducted and reported by a laboratory registered with DEA to handle controlled substances under the Controlled Substances Act (CSA), 21 CFR part 1301.13.~~ The Department may develop laboratory testing methodologies to verify the concentration of total delta-9 tetrahydrocannabinol in industrial hemp test samples or the Department may contract with another laboratory to conduct such testing using laboratory protocols approved by the Department. If the Department contracts with another laboratory, the contracted laboratory shall meet the following minimum requirements:
~~(c) Analytical testing for purposes of detecting the concentration levels of delta-9 tetrahydrocannabinol (THC) shall be conducted in accordance with USDA's current Testing Guidelines for Identifying Delta-9 Tetrahydrocannabinol (THC) Concentration in Hemp. Testing shall meet the following standards:~~

(1) Analytical testing of samples for total delta-9 tetrahydrocannabinol concentration shall use post-decarboxylation or other similarly reliable methods;
(2) Testing methodology shall account for the potential conversion of total delta-9 tetrahydrocannabinolic acid (THCA) in hemp into delta-9 tetrahydrocannabinol (THC) and the test results shall reflect the total available THC derived from the sum of the THC and THCA content;
(3) Total delta-9 tetrahydrocannabinol concentration level shall be determined and reported on dry weight basis; and
(4) A measurement of uncertainty shall be estimated and reported with the lab results. The laboratory shall use appropriate, validated methods and procedures for all testing activities and evaluate measurement of uncertainty~~; and~~.
~~(5) Quantitative determination of THC levels measured using liquid chromatography with ultraviolet detection (LC-UV) or mass spectral detection if required by matrix interference (LC/MS/MS) shall be the accepted analytical technique to avoid the risk of incomplete decarboxylation, therefore, removing the need for any post-decarboxylation.~~

~~(d)~~(c) The Department shall inspect and take samples from any cultivation site and mature Cannabis sativa L. plants located thereon, as follows:
(1) Within thirty (30) days prior to the anticipated harvest of cannabis plants, a sample from the flower material shall be collected to determine the total delta-9 tetrahydrocannabinol concentration.
(2) The Department shall send notification of routine inspections to the licensee and subcontractor, if applicable, describing the date, time, scope, and process of routine testing. The licensee, subcontractor, or representative shall be present during routine inspections and grant unrestricted access to the Department.
(3) The Department may conduct unannounced inspections and collect samples from any cultivation site during regular business hours without advance notice.
(4) A producer shall not harvest the cannabis plants prior to collection of samples.

~~(e)~~(d) Industrial hemp test samples collected by the Department during routine or unannounced inspections shall be tested to verify that the ~~delta-9 tetrahydrocannabinol concentration of~~ industrial hemp does not exceed ~~0.3% on dry weight basis~~the acceptable hemp THC level.

~~(f)~~(e) Industrial pre-harvest hemp sampling shall be conducted according to the Department standard field operating procedures.

~~(g)~~(f) The licensee shall pay the hourly inspection fees and laboratory analysis costs for any routine and unannounced inspections within thirty (30) days after receiving an invoice from the Department.

~~(h)~~(g) The Department shall waive all hourly inspection fees and laboratory analysis costs for an unannounced inspection if no violations or inconsistencies are identified by the Department.

35:30-24-13. Destruction [AMENDED]

(a) The licensee shall destroy all Cannabis sativa L. plants or plant parts if required by the rules of this subchapter or by order of the Department.

(b) Destruction of plants shall be conducted pursuant to the USDA Remediation and Disposal Guidelines for Hemp Growing Facilities ~~provisions of subsection (c) of this section unless the Department provides the licensee written authorization for an alternate method of destruction~~.

(c) The licensee shall document the destruction of Cannabis sativa L. plants or plant parts in a corrective action plan, as follows:
(1) The licensee shall submit a notification of intended destruction, including the time and date of destruction, to the Department not less than five (5) days prior to the date that the licensee intends to undertake the destruction of the Cannabis sativa L. plants or plant parts~~. Destruction shall only occur in the presence of a Department inspector or representative~~;
(2) The licensee shall make and retain a date-stamped electronic video recording the collection, ignition, and incineration of the Cannabis sativa L. plants or plant parts. The video recording shall be retained as a record relating to the destruction of industrial hemp for not less than three (3) years. The date stamp need not be displayed on the video recording but shall, at a minimum, appear in the electronic file name. The electronic video recording shall consist of sufficient duration and detail to verify that the destruction occurred and was complete; and
(3) An officer or employee of the licensee or subcontractor responsible for oversight of the Oklahoma Industrial Hemp Program and communications with the Department relating to the cultivation of industrial hemp shall submit an affidavit to the Department affirming the destruction not more than ten (10) days following the destruction.

(d) Destruction by incineration shall be conducted safely and shall be conducted in a manner consistent with the requirements for prescribed burning at 2 O.S. §16-28.2. The licensee shall delay the destruction required by this subchapter or by order of the Department until the risk of starting a wildfire is minimal.
(e) If a producer has produced cannabis exceeding the acceptable hemp THC level, the material shall be disposed of in accordance with ~~USDA AMS guidelines or the CSA and DEA regulations, as the material constitutes marijuana, a schedule I controlled substance under the CSA~~ USDA Remediation and Disposal Guidelines for Hemp Growing Facilities. ~~When material is destroyed pursuant to CSA and DEA regulations, it shall be collected for destruction by a person authorized under the CSA to handle marijuana, such as a DEA-registered reverse distributor, or a duly authorized Federal, State, or local law enforcement officer~~ The material shall be disposed of by one of the following methods: plowing under, mulching or composting, disking, bush mower or chopper, deep burial, or burning.

SUBCHAPTER 30. SOIL AMENDMENT

35:30-30-3. Contents of the label [AMENDED]
(a) Label information may be printed on the primary or secondary display panel on the bag containing the product, printed on a sticker placed on the bag, printed on a flyer or tag attached to the bag, or in the case of bulk bags or bulk, any of the above or printed on a fact sheet accompanying the shipment.
(b) The Board shall require each label to contain the following minimum information. Additional information of an instructional or explanatory nature may be provided at the discretion of the registrant.

(1) The product name as registered.
(2) The quantity of the product in quarts, cubic feet, yards, or metric equivalents or the weight of the product in ounces, pounds, tons or metric weights or the fluid measure in fluid oz, quarts or gallons or metric equivalents as determined by the dominant method of sale by the industry and as registered.
(3) The guaranteed analysis for inorganic based soil amendments shall include the name and the percentage of each active ingredient~~, and the percentage of inert ingredients~~.
(4) The guaranteed analysis for microbiological based soil amendments intended as an inoculum shall include the expiration date, state the number and kind of viable organisms per milliliter, or, if the product is other than liquid, state the number and kind of viable organisms per gram. If the product is not intended as an inoculum, then the product label shall state that the product is not a viable culture.
(5) In lieu of a guaranteed analysis for organic based soil amendments an ingredient list shall show all components whether organic or inorganic. Components shall be listed in order of decreasing volume, if they comprise at least three percent (3%) or more of the total volume of the product. Components shall be described as follows:

(A) Bark products shall be described as raw, aged, processed, or composted. Bark shall also be specified as pine or softwood (meaning Gymnosperm), or hardwood (not Gymnosperm), and may include no more than fifteen per cent (15%) wood by volume.
(B) Peat products shall be described in accordance with ASTM standards as to whether they are sphagnum, hypnum, reed-sedge, humus, or other peat.
(C) Wood products shall be described as raw, aged, processed, reprocessed or composted.
(D) Readily degradable organic substances shall be listed and described as raw, aged, processed or composted.
(E) The base material for any other composted product shall be described as listed.
(F) Mulches shall be described as listed in the components.
(G) Manures shall be described as listed in the components.

(6) Application rates and intended use statements such as general recommendations for product use. If cautionary warnings of uses not recommended are made, they should be stated in this section of the label.
(7) An address where further product information may be obtained, and a telephone number available during normal business hours for further product information.
(8) For products intended for use by commercial growers, the date of manufacture, or the month and year of manufacture, stated at any location on the bag. If the date or month and year of manufacture is coded, sufficient information must be provided to determine the date or month and year of manufacture from the code.
(9) The Board may require a registrant to include a warning or caution statement to ensure safety.

SUBCHAPTER 31. LIME

35:30-31-4. Schedule of ag-lime program fees [AMENDED]
(a) The annual vendors license fee shall be Twenty Five Dollars ($25.00). Each license shall expire December 31 of each year.
(b) An inspection fee of ten cents ($0.10) per ton shall be paid to the Board on all agricultural liming material sold or distributed for use within this state. If no lime was sold or distributed in this state for the semiannual period, manufacturers shall submit a statement reflecting that information and shall remit a minimum fee of Five Dollars ($5.00).
(c) If the Board finds any deficient inspection fees due, as a result of an audit of the records of any person subject to the provisions of the Oklahoma Agricultural Liming Materials Act, 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.
(d) The Board shall not issue and may revoke any registration, if the Board determines that the registration is for the primary purpose of disposal of the product or substance.

[OAR Docket #24-674; filed 6-26-24]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 37. FOOD SAFETY

[OAR Docket #24-676]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Poultry Products Inspection
Part 1. GENERAL PROVISION
35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations [AMENDED]
35:37-5-2. Deleted regulations and exemptions [AMENDED]
Subchapter 17. Produce Safety
35:37-17-2. Definitions [AMENDED]
Subchapter 19. Homemade Food
35:37-19-2. Definitions [AMENDED]
35:37-19-3. Sale and delivery requirements [AMENDED]
AUTHORITY:
Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2), (28) and (34); 2 O.S. 6-181 et seq.; 2 O.S. § 6-251 et seq.; and 2 O.S. § 5-4.1 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2023
COMMENT PERIOD:
December 1, 2023 through January 4, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 26, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024

SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rule amendments update the definition of poultry and the exemptions; provides a new definition for adulterated food; provides updated definitions for homemade food products; and provides updated requirements for the sale and delivery of homemade food products.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 5. POULTRY PRODUCTS INSPECTION

PART 1. GENERAL PROVISION

35:37-5-1. Definitions and incorporation by reference of federal poultry inspection regulations [AMENDED]
(a) The Mandatory Poultry Inspection Regulations found in Title 9 of the Code of Federal Regulations (CFR), Parts 381; 416; 417; 418; 424; 430; 441; 442; and 500 for the United States Department of Agriculture (USDA) as promulgated and amended in the Federal Register, are hereby adopted in their entirety with the exception of the deleted regulations specified in 35:37-5-2. Whenever an official mark, form, certificate, or seal is designated by federal regulations, the appropriate Oklahoma Department of Agriculture, Food, and Forestry mark, form, certificate, or seal shall be substituted.
(b) All words and terms defined or used in the federal regulations incorporated by reference by the Department shall mean the state equivalent or counterpart to those words or terms.
(c) The following terms, when used in this subchapter, shall have the following meaning unless the context clearly indicates otherwise:
(1) **"Act"** means the Oklahoma Poultry Products Inspection Act.
(2) **"Director"** means the Director of Meat Inspection.
(3) **"Poultry"** means any domesticated bird, whether live or dead, including chickens, turkeys, ducks, geese, guineas, domesticated quail, domesticated pheasant, ratites, or squabs (also known as young pigeons from one to about thirty (30) days of age).
(4) **"Poultry product"** means any poultry carcass, part, or product made wholly or in part from any poultry carcass or part that can be used as human food, except those exempted from definition as a poultry product in Title 9 of the Code of Federal Regulations (CFR), Part 381.15. This term shall not include detached ova.
(5) **"Poultry byproduct"** means the skin, fat, gizzard, heart, or liver, or any combination of any poultry for cooked, smoked sausage.

35:37-5-2. Deleted regulations and exemptions [AMENDED]

(a) The following sections of the Federal regulations governing the mandatory poultry inspection (9 CFR, Part 381; 416; 417; 418; 424; 441; 442; and 500), of the USDA incorporated by reference under 35:15-27-1 are deleted and are not rules of the Oklahoma Department of Agriculture, Food, and Forestry: 381.6; 381.10(a)(2), (5), (6), and (7); 381.10(b); 381.10(d)(2)(i); 381.13(b); 381.16; 381.17; 381.20; 381.21; 381.37; 381.38; 381.39; 381.96; 381.101; 381.103 through 381.112; 381.123(b)(1) and (4); 381.132(c); 381.133; 381.179; 381.185; 381.186; and 381.195 through 381.225.
(b) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:

(1) The producers slaughter no more than two hundred and fifty (250) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a calendar year;
(2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;
(3) The whole bird poultry ~~and poultry products~~ does not move in commerce. Producers are prohibited from selling or donating uninspected poultry products to retail stores, brokers, meat markets, schools, orphanages, restaurants, nursing homes, and other similar establishments and are prohibited from sales or donation of uninspected poultry through any type of retail market or similar establishment owned or operated by the producer;
(4) The producers submit a certificate of registration to the Department;
(5) The poultry is healthy, slaughtered, and processed under sanitary standards, practices, and procedures that result in the preparation of whole bird poultry ~~products~~ that are sound, clean, and fit for human food, and each carcass, part, or poultry product bears a label that lists the customer's name, the producer's name, and the following statement, "This poultry product has not been inspected and passed";
(6) The whole bird poultry is sold directly to the household consumer, restaurant, hotel, or boardinghouse, for use in their establishment or in the preparation of meals for sales directly to consumers and transported without third-party intervention or intervening transfer or storage, and is maintained in a safe and unadulterated condition during transportation; and
(7) The producers allow an authorized agent of the Department access to their facilities and an opportunity to examine records at all reasonable times, upon notice.

(c) The provisions of this Act and rules do not apply to poultry producers who slaughter their own poultry raised on their farm, and each of the following apply:

(1) The producers slaughter no more than two thousand five hundred (2500) turkeys or their equivalent with a ratio of four (4) birds of other species, excluding ratites, to one (1) turkey during a calendar year;
(2) The producers do not engage in buying or selling poultry products other than those produced from poultry raised on their own farms;
(3) The poultry is sold by the producer, or other person for distribution by the producer, solely within the producer's jurisdiction, directly to household consumers, restaurants, hotels, and boardinghouses for use in their own dining rooms or in the preparation of meals for sales directly to consumers;
(4) The producers submit a certificate of registration to the Department;
(5) The poultry is healthy, slaughtered, and processed under sanitary standards, practices, and procedures that result in the preparation of whole bird poultry ~~products~~ that are sound, clean and fit for human food, and each whole bird carcass, ~~part or poultry product~~ bears a label that lists the producer's name and address and the following statement, **"**This poultry product has not been inspected and passed**"** and the products are not otherwise misbranded;
(6) The producers meet the sanitation requirements as provided in 9 CFR 416.1-5 and allow the Department to inspect sanitation at least two (2) times each year;
(7) The producers allow an authorized agent of the Department access to their facilities and an opportunity to examine records at all reasonable times, upon notice; and
(8) The producers do not engage, within the same calendar year, in the business of buying or selling any poultry or poultry products or engage in any other poultry exemptions, or operate an inspected poultry establishment, unless approved by the Department.

SUBCHAPTER 17. PRODUCE SAFETY

35:37-17-2. Definitions [AMENDED]

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

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

(1) **"Adulterated Food"** means food that fails to meet the legal standards and bears or contains any poisonous or deleterious substance which may render it injurious to health including any pesticide chemical residue that is unsafe according to EPA standards, food additive that is unsafe according to FDA standards, color additive that is unsafe according to FDA standards, or new animal drug that may cause injury or make the product unfit for food. Also includes food that has been prepared, packed, or held under insanitary conditions or contaminated with filth, such as insects. Also if the food container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

~~(1)~~(2) **"Covered produce farm"** means any farm engaged in the growing, harvesting, packing, or holding of produce for human consumption which is subject to the requirements of the FDA Food Safety Modernization Act.

~~(2)~~(3) **"Produce"** means any fruit or vegetable (including mixes of intact fruits and vegetables) and includes mushrooms, sprouts (irrespective of seed source), and herbs. Produce does not include food grains meaning the small, hard fruits or seeds of cereal grains and oil seeds.

SUBCHAPTER 19. HOMEMADE FOOD

35:37-19-2. Definitions [AMENDED]

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

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food service establishment or food processing plant, and does not offer the food for resale (see also definition in OAC 310:257-1-2);

"Delivered" means transferred to the customer, either immediately upon sale or at a time thereafter;

"Home food establishment" means a business on the premises of a home, apartment, or other dwelling in which a producer resides and in which homemade food products are created for sale or resale if the business has gross annual sales of prepared food of less than Seventy-five Thousand Dollars ($75,000.00). A home food establishment shall be limited to one business per premises, but gross annual sales of the business shall include all sales of prepared food produced by the business at any location;

"Homemade food product" means human food, including a beverage, which is produced and, if packaged, packaged at a residence; provided, however, homemade food product shall not mean alcoholic beverages, unpasteurized milk, cannabis or marijuana products and shall not contain seafood, including, but not limited to, all fish, shellfish, and fishery products, meat, meat by-products, or meat food products as defined by Section 301.2 of Title 9 of the Code of Federal Regulations or poultry, poultry products, or poultry food products as defined for purposes of the federal Poultry Products Inspection Act;

"Non-time-or-temperature-controlled-for-safety" means food that does not require time or temperature control for safety to limit the rapid and progressive growth of infectious or toxigenic microorganisms, including foods that have a pH level of four and six- tenths (4.6) or below or a water activity (aw) value of eighty-five one-hundredths (0.85) or less;

"Produce" means to prepare a food product by cooking, baking, drying, mixing, cutting, canning, fermenting, preserving, dehydrating, growing, raising, or other process;

"Producer" means the person who produces a homemade food product in a home food establishment; and

"Time-or-temperature-controlled-for-safety" means a food that requires time or temperature control for safety to limit infectious or toxigenic microorganisms and is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms; provided, however, time or temperature controlled for safety shall not include foods that have a pH level of four and six-tenths (4.6) or below or a water activity (aw) value of eighty-five one-hundredths (0.85) or less. Milk and milk products shall be considered Time-or-temperature-controlled-for-safety foods.

35:37-19-3. Sale and delivery requirements [AMENDED]

(a) Non-time-or-temperature-controlled-for-safety homemade food products shall be sold:

(1) By the producer directly to the consumer, either in person or by remote means, including, but not limited to, the internet or telephone; or

(2) By a producer's designated agent or a third-party vendor, including, but not limited to, a retail or grocery store, farm, farm stand, farmers market, membership-based buying club, craft fair, or flea market, to the consumer; provided, the third-party vendor shall display a placard where homemade food products are displayed for sale with the following disclosure: "This product was produced in a private residence that is exempt from government licensing and inspection. This product may contain allergens.".

(b) Non-time-or-temperature-controlled-for-safety homemade food products shall be delivered:

(1) By the producer or producer's designated agent directly to the consumer or a third-party vendor; or

(2) By a third-party vendor or a third-party carrier, such as a parcel delivery service, to the consumer or a third-party vendor.

(c) Time-or-temperature-controlled-for-safety homemade food products shall be sold by the producer directly to the consumer, either in person or by remote means, including, but not limited to, the internet or telephone.

(d) Time-or-temperature-controlled-for-safety homemade food products shall be delivered by the producer directly to the consumer.

(e) Before a producer begins to produce and sell time-or-temperature-controlled-for-safety homemade food products and thereafter, the producer shall satisfactorily complete and maintain food safety training from a list of providers found on the Oklahoma Department of Agriculture, Food, and Forestry website, including the ServSafe Food Handler Training, approved by the Oklahoma Department of Agriculture, Food, and Forestry. Food safety training shall be available online or in person and shall not exceed eight (8) hours in length.

(f) Homemade food products that are packaged and distributed in interstate commerce shall be sold in accordance with federal law.

(g) The production date of a homemade food product shall be displayed where the product is sold directly to the consumer. If the product is prepared for delivery by a third-party, the production date shall be located on the food package or on a card included with the food package.

(h) All products sold under Section 5-4.1 et seq. of Title 2 of the Oklahoma Statutes.

[OAR Docket #24-676; filed 6-26-24]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 40. MARKET DEVELOPMENT

[OAR Docket #24-678]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 25. Oklahoma Witner Storm Grant Program [NEW]
35:40-25-1. Purpose [NEW]
35:40-25-2. Definitions [NEW]
35:40-25-3. Applicant eligibility [NEW]
35:40-25-4. Evaluation criteria [NEW]
35:40-25-5. Application requirements [NEW]
AUTHORITY:
Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); 2 O.S. § 5-3.1 et seq., and 2 O.S. §5-14 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2023
COMMENT PERIOD:
December 1, 2023 through January 4, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 26, 2024
LEGISLATIVE APPROVAL:
N/A

LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
Subchapter 25. Oklahoma Witner Storm Grant Program [NEW]
35:40-25-1. Purpose [NEW]
35:40-25-2. Definitions [NEW]
35:40-25-3. Applicant eligibility [NEW]
35:40-25-4. Evaluation criteria [NEW]
35:40-25-5. Application requirements [NEW]
GUBERNATORIAL APPROVAL:
September 11, 2023
REGISTER PUBLICATION:
41 Ok Reg 123
DOCKET NUMBER:
23-773
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The new rules create the Oklahoma Winter Grant Program; the rules add definitions; establishes requirements for eligibility; establishes evaluation criteria; and establishes application requirements.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 25. OKLAHOMA WITNER STORM GRANT PROGRAM [NEW]

35:40-25-1. Purpose [NEW]

The purpose of the Oklahoma Winter Storm Grant Program is to provide grants to incorporated municipalities to mitigate extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility affected by the extreme weather event that began February 7. 2021. The Oklahoma Department of Agriculture, Food, and Forestry shall operate the Oklahoma Winter Storm Grant Program in a manner consistent with the provisions of Section 11-11 et seq. of Title 2 of the Oklahoma Statutes.

35:40-25-2. Definitions [NEW]

The following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:
"Department" means the Oklahoma Department of Agriculture, Food, and Forestry, or its designee.

"Extraordinary costs" means costs incurred by an incorporated municipality's unregulated utility related to the extreme weather that occurred beginning February 7, 2021, and ending February 21, 2021, including but not limited to, fuel-related storage and associated costs, emergency compressed or liquified natural gas supplies, contracts for services providing additional pressurization on lines and transportation pipeline penalties. "Extraordinary costs" shall not include fees for late payments or "Extreme purchase costs", as defined in this section.

"Extreme purchase costs" means expenses incurred for the purchase of fuel, purchased power, natural gas commodity, or any combination thereof, whether at spot pricing, index pricing, or otherwise with delivery beginning February 7, 2021, and ending
February 21, 2021.

"Unregulated utility" means any utility, as defined in this section, which is not subject to the regulatory jurisdiction of the Corporation Commission with respect to its rates, charges, and terms and conditions of service.

"Utility" means any person or entity doing business in this state that furnishes natural gas or electric current to its customers located at an address within this state and within the service area of the utility.

35:40-25-3. Applicant eligibility [NEW]

Each applicant shall meet the following requirements:

(1) The incorporated municipality shall show proof of extreme purchase costs, extraordinary costs, or both, incurred by the incorporated municipality's owned or controlled unregulated utility;

(2) The population of the incorporated municipality shall be no greater than three thousand five hundred (3,500) persons according to the most recent Federal Decennial Census or most recent annual estimate of the population by the United States Census Bureau; and

(3) The incorporated municipality's owned or controlled unregulated utility shall have had no costs mitigated through securitization as provided by Sections 9070 through 9081 of Title 74 of the Oklahoma Statutes.

35:40-25-4. Evaluation criteria [NEW]

(a) The Department shall evaluate applications and determine the priority of applicants after considering the following criteria:

(1) The implications of the extraordinary costs and extreme purchase costs regarding an incorporated municipality's solvency; and

(2) The amount of an incorporated municipality's extraordinary costs and extreme purchase costs on a per capita basis.

(b) The Department shall have discretion to award funding based upon its findings and upon its level of available funds.

35:40-25-5. Application requirements [NEW]

Each applicant for program funds shall:

(1) Execute documents as required by the Department;

(2) Submit the incorporated municipality’s energy bills for the five (5) years preceding and ending on February 7, 2021;

(3) Agree to prioritize the use of awarded grant funds for extreme purchase costs when requesting grant funds for both extreme purchase costs and extraordinary costs; and

(4) Submit all required documents electronically to the Oklahoma Department of Agriculture, Food, and Forestry.

[OAR Docket #24-678; filed 6-26-24]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 45. WATER QUALITY STANDARDS IMPLEMENTATION PLAN

[OAR Docket #24-679]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. Water Quality Standards Implementation Plan

35:45-1-1. Section I - Statutory authority, definitions, standards, jurisdiction, beneficial uses and protocols [AMENDED]
35:45-1-2. Pertinent definitions, abbreviations, and acronyms [AMENDED]
35:45-1-3. General statement of policy; responsibility for WQSIP document [AMENDED]
35:45-1-4. Pertinent water quality standards [AMENDED]
35:45-1-7. Animal waste programs [AMENDED]
35:45-1-8. Pesticide program [AMENDED]

AUTHORITY:
Okla. Const., Art. 6, § 31; State Board of Agriculture; 27A O.S. § 1-1-202; 2 O.S. § 3-81 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2023
COMMENT PERIOD:
December 1, 2023 through January 4, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 26, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rule amendments replace outdated citations with updated citations referenced throughout the subchapter; update references to the Oklahoma Department of Agriculture, Food, and Forestry; update the parties responsible for WQSIP document; removes groundwater samples from the evaluation of effectiveness of agency activities for animal waste programs.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. WATER QUALITY STANDARDS IMPLEMENTATION PLAN

35:45-1-1. Section I - Statutory authority, definitions, standards, jurisdiction, beneficial uses and protocols [AMENDED]

(a) Subsection B, 27A O.S. Supp 1998, Section 1-1-202 (enacted through Senate Bill 549), mandates that each state environmental agency shall promulgate, by July 1, 2001, a Water Quality Standards Implementation Plan (WQSIP) for its jurisdictional areas of environmental responsibility specifying how the agency utilizes and enforces the Oklahoma Water Quality Standards for surface water and groundwater. The Implementation Plan must be promulgated in compliance with the Administrative Procedures Act and pursuant to Section 1-1-202. After initial promulgation, each state environmental agency must review its plan at least every three years thereafter to determine whether revisions to the plan are necessary. All references to sections are to the original plan document, which is available from the Oklahoma Department of Agriculture.

(b) The Water Quality Standards Implementation Plan is to include eight elements for each jurisdictional area:

(1) Program Compliance with Antidegradation Requirements and Protection of Beneficial Uses - General description of the processes, procedures and methodologies utilized to ensure that programs within the agency's jurisdictional areas of environmental responsibility comply with anti-degradation standards and lead to maintenance of water quality where beneficial uses are supported, removal of threats to water quality where beneficial uses are in danger of not being supported, and restoration of water quality where beneficial uses are not being supported.

(2) Application of Use Support Assessment Protocols (USAP)-Procedures to be utilized in the application of use support assessment protocols (found at OAC ~~785:46~~ 252:740, Subchapter 15) to make impairment determinations.

(3) Description of Programs Affecting Water Quality - Description of the surface water and/or groundwater quality-related components of pertinent programs within each jurisdictional area.

(4) Technical Information and Procedures - Technical information, databases, and procedures to be utilized by the Oklahoma Department of Agriculture, ~~(ODA)~~Food, and Forestry (ODAFF) in the WQSIP.

(5) Integration of WQSIP into ~~ODA~~ODAFF activities - Describe how the Water Quality Standards Implementation Plan is and will be integrated into the water quality management activities of the agency, including rules, program area policies and guidance, and standardized methods of conducting business.

(6) Compliance with Mandated Statewide Water Quality Requirements - Describe how ~~ODA~~ODAFF is or will be complying with mandated statewide requirements affecting water quality developed by other state environmental agencies, including, but not limited to, total maximum daily load (TMDL) development, nonpoint source (NPS) pollution prevention programs, Oklahoma Water Quality Standards (OWQS), OWQS implementation procedures, and the Continuing Planning Process (CPP) document.

(7) Public and Interagency Participation - Summary of written comments and testimony received relative to all public meetings held for the purpose of providing public participation relating to the WQSIP, and new rules related to the WQSIP.

(8) Evaluation of Effectiveness of Agency Activities - Describe methods and means to evaluate the effectiveness of activities conducted pursuant to the WQSIP to achieve Water Quality Standards (WQS).

35:45-1-2. Pertinent definitions, abbreviations, and acronyms [AMENDED]

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

"303" means Section 303 of the CWA, which requires states to review and, as necessary, revise their water quality standards at least every three (3) years.

"402" means Section 402 of the CWA, which establishes the National Pollutant Discharge Elimination System (NPDES).

"AgPDES" means Agriculture Pollutant Discharge Elimination System, as authorized by Oklahoma Agriculture Pollutant Discharge Elimination System Act, 2 O.S. § 2A-1 et seq.

"Animal Feeding Operation" means a lot or facility where the following conditions are met:

(A) animals have been, are, or will be stabled or confined and fed or maintained for a total of ninety (90) consecutive days or more in any twelve-month period, and

(B) crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

"Animal Waste" means animal excrement, animal carcasses, feed wastes, process wastewaters, or any other waste associated with the confinement of animals from an animal or poultry feeding operation.

"Appendix F" means Appendix F of the OWQS, OAC ~~785:45~~252:730, which has the statistical values of historic data for TDS, chloride, and sulfate for streams in most of the watersheds across the state.

"Background" means the ambient level of a pollutant relative to a potential source of pollution, and which is characterized by upstream (to the source being investigated) concentrations of a pollutant for surface waters or hydraulically upgradient concentrations for groundwater.

"BMP" means Best Management Practices, which are schedules of activities, prohibitions on practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state.

"CAFO" means Concentrated Animal Feeding Operation, as defined by the Oklahoma Concentrated Animal Feeding Operations Act, 2 O.S. § 20-41(B)(11).

"CPP" means the Continuing Planning Process document, submitted by the state to EPA, which describes present and planned water quality management programs and the strategy used by the State in conducting these programs. Information on how the state utilizes the WQS and WQS Implementation Criteria are contained in this document.

"CWA" means the federal Clean Water Act and amendments.

"CWAC" as defined in OAC ~~785:45~~ 252:730, means Cool Water Aquatic Community, a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality, water temperature and habitat are adequate to support warm water intolerant climax fish communities and includes an environment suitable for the full range of cool water benthos.

"DEQ" means the Oklahoma Department of Environmental Quality.

"Discharge" means any release by leaking, pumping, pouring, emitting, emptying, dumping, escaping, seeping, leaching, or other means of release of wastes or wastewater except as otherwise provided in Section ~~9-204.1~~20-6 of Title 2 of the Oklahoma Statutes. The term discharge shall not include a distribution of waste water into an irrigation system for the purpose of land application of waste to property, provided the waste does not leave the land application area.

"EPA" means the federal Environmental Protection Agency.

"Fish and Wildlife Propagation" means the WQS beneficial use designation for promoting fish and wildlife propagation for the fishery classifications of HLAC, WWAC, CWAC, and Trout Fishery (Put and Take).

"Fish Consumption" means the WQS beneficial use designation for the protection of human health for the consumption of fish.

"HLAC" as defined in OAC ~~785:45~~252:730, means Habitat-Limited Aquatic Community, a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water chemistry or habitat are not adequate to support a warm water aquatic community (WWAC).

"HQW" means High Quality Water, defined as those waters of the state which possess existing water quality which exceeds that necessary to support the propagation of fishes, shellfishes, wildlife, and recreation in and on the water. HQWs must receive special protection against degradation.

"Land Application" means the application of substances including animal waste and other substances to the land, at approved rates within the capacity of the land or crops.

"LMFO" means a Licensed Managed Feeding Operation, as defined by the Oklahoma Swine Feeding Operations Act at 2 O.S. § 20-3(B)(18).

"MDL" means the Method Detection Limit and is defined as the minimum concentration of an analyte that can be measured and reported with 99% confidence that the analyte concentration is greater than zero. MDL is dependent upon the analyte of concern.

"NOI" means Notice of Intent.

"Nonpoint Source" means a source of pollution without a well defined point of origin or a single identifiable source such as an outfall pipe, often involving overland flow of pollutants with storm water or subsurface flow of pollutants with groundwater over a wide area.

"NPDES" means the National Pollutant Discharge Elimination System, as authorized by Section 402 of the CWA.

"Nutrient-Limited Watershed" means a watershed of a water body that is designated as nutrient limited in the most recent Oklahoma Water Quality Standards.

"Nutrient-Vulnerable Groundwater" means groundwater that is designated nutrient-vulnerable in the most recent Oklahoma Water Quality Standards.

"OAC" means Oklahoma Administrative Code.

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

"ORW" means Outstanding Resource Water, defined as a water of the state that constitutes an outstanding resource or is of exceptional recreational or ecological significance. ORWs must receive special protection against degradation.

"O.S." means Oklahoma Statutes.

"OWRB" means the Oklahoma Water Resources Board.

"PBCR" means Primary Body Contact Recreation, a WQS beneficial use designation.

"Plan" means the Water Quality Standards Implementation Plan, or portion thereof, promulgated by ODAFF in this chapter for the programs that affect water quality within ODAFF's jurisdictional areas of environmental responsibility.

"Point Source" means any discernible, confined and discrete conveyance from which pollutants are or may be discharged such as a discharge pipe (see also definition in OAC ~~785:45~~252:730).

"Poultry Feeding Operation" means a property or facility where the following conditions are met:

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

(B) crops vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the property or facility, and

(C) producing over ten (10) tons of poultry waste per year.

"PPP" means Pollution Prevention Plan and is a written plan to control the discharge of pollutants that has been prepared in accordance with industry acceptable engineering and management practices.

"PQL" means Practical Quantitation Limit and is defined as 5 times the MDL. The PQL represents a practical and routinely achievable detection limit with high confidence.

"PPWS" means Public and Private Water Supply, a WQS beneficial use designation for the protection of human health for the consumption of water and consumption of fish and water.

"Remediation" means the removal of pollutants from soil or water by absorption, excavation, pumping, natural attenuation, biological, chemical, or other means or combination of methods.

"Scenic River" means a river or stream so designated pursuant to the Wild and Scenic Rivers Act. A scenic river is automatically considered an ORW.

"Silviculture" means the art and science of controlling the establishment, composition, and growth of forests.

"SWS" means Sensitive Public and Private Water Supply.

"TMDL" means Total Maximum Daily Load, a written, pollutant-specific and water body-specific plan establishing pollutant loads for point and nonpoint sources, incorporating safety reserves, to ensure that a specific water body will attain and maintain the water quality necessary to support existing and designated beneficial uses. The term also includes consideration of increases in pollutant loads.

"UAA" means Use Attainability Analysis, an investigation ~~by OWRB~~ of whether a WWAC or CWAC subcategorization (for the Fish and Wildlife Propagation beneficial use) is reasonably attainable.

"USAP" means Use Support Assessment Protocols, defining how sampling and other data shall be used to determine whether or not a water body is meeting its beneficial uses, as defined at OAC ~~785:46~~252-740, Subchapter 15.

"USDA NRCS" means the United States Department of Agriculture Natural Resources Conservation Service.

"USGS" means the United States Geological Survey.

"Waters of the State" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, storm sewers and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof, and shall include under all circumstances the waters of the United States which are contained within the boundaries of, flow through or border upon this state or any portion thereof. Provided, waste treatment systems, including treatment ponds and lagoons designed to meet federal and state requirements other than cooling ponds as defined in the federal Clean Water Act or promulgated rules, are not waters of the state.

"WQS (or OWQS)" means the Oklahoma Water Quality Standards, established pursuant to Section 303 of the CWA, and which serve as goals for water quality management planning and benchmark criteria for the ~~NPDES/OPDES~~AgPDES permitting process. Water Quality Standards consist of beneficial use classifications for navigable waters, water quality criteria to support those uses, and an antidegradation policy statement. Oklahoma's Water Quality Standards are found at OAC ~~785:45~~252:730.

"WQSIP" means Water Quality Standards Implementation Plan.

"WWAC" as defined in OAC ~~785:45~~252:730, means Warm Water Aquatic Community, a subcategory of the beneficial use category "Fish and Wildlife Propagation" where the water quality and habitat are adequate to support climax fish communities and includes an environment suitable for the full range of warm water benthos.

35:45-1-3. General statement of policy; responsibility for WQSIP document [AMENDED]

(a) As a general statement of agency policy, programs and activities within ODAFF will be managed to protect the beneficial uses of the state's waters and to maintain water quality standards. In addition, when problems are identified, the agency will assist landowners, the industry, and other agencies with technical recommendations on remediation efforts using appropriate practices.
(b) The Assistant Director with water quality program supervisory responsibilities and the Water Quality Staff Forester prepared the WQSIP for the Forestry Services Division. The Agricultural Environmental Management Services Division section was initially prepared by the ~~Division's~~ Professional Engineer. The Consumer Protection Services Division section was developed by the Water Quality Program Administrator. ~~These individuals~~the three division directors ~~will be~~are responsible for maintaining ~~distributing copies of~~ the final plan, ~~informing field offices and~~ updating the plan as necessary.

35:45-1-4. Pertinent water quality standards [AMENDED]
(a) Pursuant to Section 303 of the CWA, Oklahoma's surface water quality standards are promulgated by the ~~OWRB~~ODEQ at OAC ~~785:45~~252:730, Subchapter 5. Surface water quality standards are comprised of three elements:
(1) Beneficial uses, designated to apply to specific water bodies or defined water body segments~~, as listed in Appendix A to OAC 785:45~~, generally address the goals of the CWA. Certain default beneficial uses are assumed for waters not listed in Appendix A until a UAA indicates otherwise. The subset of beneficial uses which address water quality are:
(A) Public and Private Water Supply ~~(PPWS) (OAC 785:45-5-10)~~;
(B) Fish and Wildlife Propagation (F&W) ~~(OAC 785:45-5-12)~~, according to one of four fishery subcategories:
(i) Habitat-Limited Aquatic Community (HLAC).
(ii) Warm Water Aquatic Community (WWAC).
(iii) Cool Water Aquatic Community (CWAC).
(iv) Trout Fishery (Put and Take) - Criteria used in the protection of F&W shall include DO, T0, pH, Oil and Grease, Bio Criteria, toxic substances, turbidity, and sediments.
(C) Agriculture (Ag) ~~(OAC 785:45-5-13)~~;
(D) Primary Body Contact Recreation (PBCR) ~~(OAC 785:45-5-16)~~;
(E) Secondary Body Contact Recreation ~~(OAC 785:45-5-17)~~; and
(F) Aesthetics ~~(OAC 785:45-5-19)~~.
(G) Fish Consumption ~~(OAC 785:45-5-20)~~.
(2) Numerical and narrative criteria ~~(OAC 785:45-5)~~ apply statewide. Numerical criteria are pollutant-specific and apply to a water body according to its beneficial uses ~~in accordance with OAC 785:45~~. Narrative criteria are generally referred to as "free from" prohibitions.
(3) Numerical salinity water quality standards are only for agricultural beneficial uses (irrigation and watering livestock). Stream segment averages of historic data for chlorides, sulfates, and TDS are available in Appendix F for most stream segments statewide. The WQS also allows for use of upstream/background data and data from surrounding streams instead of these averages if this data provides a more appropriate basis for setting standards for a specific stream ~~(OAC 785:45-5-13(e) and (f))~~. However, for the protection of Agriculture use, neither long nor short term average concentrations of minerals shall be required to be less than 700 mg/l for TDS, nor less than 250 mg/l for either chlorides or sulfates ~~(OAC 785-45-5-13 (g))~~.
(4) General Narrative Criteria for Minerals ~~at OAC OAC 785:45-5-9(a)~~ states that "Increased mineralization from other elements such as, but not limited to, calcium, magnesium, sodium, and their associated anions shall not impair any beneficial use," which ~~OWRB~~ODEQ interprets as meaning that neither salinity nor other minerals shall be allowed to impair the PPWS, F&W, PBCR, and other beneficial uses listed for streams in the WQS.
(5) Excess sediment impacts may be addressed through the numeric turbidity standards established for F&W. Heavy metal numerical WQS have been set by ~~OWRB~~ODEQ for many beneficial uses.
(6) A water quality antidegradation policy~~,which~~ applies statewide, ~~and~~ is~~,~~ consistent with the goals of the CWA~~, is found at OAC 785:45, Subchapter 3. Antidegradation policy implementation is found at OAC 785:45-5-25 and OAC 785:46, Subchapter 13.~~ Levels of protection are as follows:
(A) Attainment or maintenance of existing or designated beneficial uses.
(B) Maintenance quality of improved waters.
(C) Maintenance of beneficial uses and water quality in higher quality waters and sensitive public and private water supplies of the state, as well as in waters of ecological or recreational significance.
(D) Prohibition of any water quality degradation from new point source discharges or increased loading from existing discharges into waters designated as outstanding resource waters and scenic rivers.

(7) Special provision ~~at OAC 785:45-5-29~~ - Delineation of Nutrient Limited Watershed (NLW) areas specifies spatial limitations of these areas that require additional protection.

(b) Although not required by any provision of the CWA, the OWRB has promulgated groundwater quality standards for the state at OAC 785:45, Subchapter 7. Groundwater quality standards and protection are comprised of seven elements:

(1) Beneficial uses, designated to apply to the groundwater situated below the surface of the dedicated land identified in a groundwater use permit or right issued by the OWRB. Such beneficial uses are defined at OAC 785:45-7-3(b) and may include, but are not limited to:

(A) Public and Private Water Supply (including municipal use and domestic use).

(B) Agriculture for irrigation or livestock watering.

(C) Industrial and municipal process and cooling water.

(2) Classifications~~, found at OAC 785:45-7-3(a)~~ are as follows:

(A) Class I (Special Source Groundwater): Groundwaters where exceptional water quality exists, where there is an irreplaceable source of water, where it is necessary to maintain an outstanding groundwater resource or where the groundwater is ecologically important. This class of groundwater is considered to be very vulnerable to contamination and includes:

(i) All groundwater located beneath the watersheds of surface waters designated as Scenic Rivers ~~in Appendix A to OAC 785:45~~.

(ii) Groundwater located underneath lands located within the boundaries of areas with waters of ecological ~~and/~~or recreational significance ~~listed in Tables 1 and 2 of Appendix B to OAC 785:45~~.

(iii) Groundwater located underneath lands within the boundaries of a state-approved wellhead or source water protection area for public water supply.

(B) Class II (General Use Groundwater): Groundwaters capable of being used as a drinking water supply with conventional or no treatment methods, with the potential for multiple beneficial uses, and with mean TDS levels < 3000 mg/l.

(C) Class III (Limited Use Groundwater): Poor quality groundwaters due to natural conditions, which require extensive treatment for use as a drinking water source, with mean TDS levels of ≥ 3000 mg/l and < 5000 mg/l.

(D) Class IV (Highly Mineralized Treatable Groundwater): Very poor quality groundwaters due to natural conditions, which require extensive treatment for use as a drinking water source, having mean TDS levels ≥ 5000 mg/l but <10000 mg/l.

(3) Beneficial use designations: Class I and II, not identified in Appendix H of OAC ~~785:45~~252:730, shall be public and private water supply, agriculture, and Industrial and municipal process ad cooling water. Class III and IV, not identified in Appendix H of OAC ~~785:45~~252:730, shall be agriculture, and Industrial and municipal process and cooling water. Appendix H specifies beneficial uses for groundwater contained in the appendix.

(4) Vulnerability level: Certain hydrogeologic basins are classified according to its vulnerability to contamination and identified as Very Low, Low, Moderate, High and Very High per Table 1 of Appendix D of OAC ~~785:45~~252:730.

(5) Nutrient-vulnerable groundwater: Certain groundwaters are subject to further designation as nutrient-vulnerable groundwater per Table 2 of Appendix D.

(6) Criteria for protection of groundwater quality:

(A) Groundwaters of the state shall be maintained to prevent alteration of their chemical properties by harmful substances not naturally found in groundwater.

(B) Protective measures shall be at all times maintained which are adequate to preserve and protect existing and designated groundwater basin classifications and which are sufficient to minimize the impact of pollutants on groundwater quality.

(C) The concentration of any synthetic substances or any substances not naturally occurring in that location shall not exceed the PQL in an unpolluted groundwater sample using laboratory technology.

(D) Prescriptive measures shall be developed by each state environmental agency and included in their WQSIP, and they shall be implemented to prevent-groundwater pollution caused by any person or entity within their jurisdictional area of environmental responsibility.

(E) Each state environmental agency shall consider the hydrogeologic basin's vulnerability level and designated nutrient vulnerable groundwaters for surface activities with the potential to contaminate groundwater.

(7) Criteria for corrective action:

(A) Groundwater that has been polluted as a result of human activities shall be restored to a quality that will support uses designated in OAC ~~785:45~~252:730-7-3(b) for that groundwater or meet the requirements of a site specific remediation plan approved by the appropriate state environmental agency.
(B) Measures to remedy, control or abate groundwater pollution caused by any person shall be the responsibility of each state environmental agency within its jurisdictional areas of environmental responsibility as prescribed in the agency's WQSIP.

35:45-1-7. Animal waste programs [AMENDED]

(a) Compliance with antidegradation requirements and protection of beneficial uses.

(1) This area of jurisdiction includes the licensing or registering of CAFOs, LMFOs and poultry operations. These programs include land application of animal or poultry waste. Discharges of animal and poultry waste into waters of the State are statutorily prohibited. As a result, no discharge shall result from the operation of the facility. CAFOs and LMFOs may only discharge in the event of a 25 year/24 hour rainfall event and are required to construct the waste retention structures to contain the 25 year/24 hour rainfall event; except for new LMFO (swine), poultry and veal calves CAFOs, which are required to have waste management and storage facilities to contain all waste and runoff for 100 year/24 hour rainfall event. In addition, OAC 35:17-3-14(b)(3)(C) allows a facility which has been properly designed, constructed, and operated and is in danger of an imminent overflow due to chronic or catastrophic rainfall to discharge wastewaters to land application sites for filtering prior to discharging to surface or groundwaters of the state.
(2) Beneficial uses that could potentially be impaired by improper land application, leakage from animal waste lagoons, or breach of a lagoon could impact both ground water and surface water. Beneficial uses that could be affected include, but are not limited to: (1) Fish and Wildlife Propagation may be impaired by lack of DO due to nutrient loading. (2) Public and Private Water Supplies may be impaired by fecal coliform, algae growth, and nutrient loading. (3) Recreation may be impaired by pathogens. (4) Aesthetics may be impacted by nutrient loading. All of these impairments could be caused by unauthorized discharges to waters of the state.
(3) Violations of the "no discharge" standard for CAFOs, LMFOs, and poultry feeding operations result in enforcement actions. These actions integrate corrective ~~or~~and remedial activities that can include clean-up activities and restoration activities. Remediation requirements are determined on a case-by-case basis. The Department shall assess and review all approved remediation requirements to provide technical standards for future remediations.
(4) Education programs are also required for all poultry waste applicators, operators of poultry feeding operations, and employees of LMFOs. Employees responsible for ~~CAFO~~ permit compliance must be annually trained or informed of any information pertinent to the proper operation and maintenance of the facility and waste disposal.
(5) OAC ~~785:46~~252:730-13-5 provides that no new or increased point source discharges are allowed in water bodies and watersheds designated by the WQS as an ORW or Scenic River. Waters that have been classified as HQW and SWS according to OAC ~~785:45~~252:730-5-25 (c) (3) and (4) are prohibited from having any new point source discharge(s) of any pollutant or increased load or concentration of specified pollutants from existing point sources discharge(s), except as provided in the regulations. CAFOs are by definition point sources. In addition, all nonpoint sources shall implement best management practices in watersheds designated as ORW. However, if nonpoint sources are identified as significantly contributing to the degradation of a water body designated as an ORW, conservation plans shall be developed in subwatersheds. Finally, LMFOs established after August 1, 1998 applying for a new CAFO license or expansion after March 9, 1998 shall not be located within three (3) miles of any designated scenic river area or within one (1) mile of a water body designated as ORW.
(6) LMFO's that are located in nutrient-limited watersheds and or nutrient-vulnerable groundwaters ~~as designated by the OWRB must~~shall meet current ~~lagoon~~waste retention structure liner criteria according to Title 2, O.S. § 20-12(H)(3), and meet land application nutrient loading rate requirements per OAC 35:17-3-14(b)(4).
(7) Poultry feeding operations that are located in nutrient limited watersheds or nutrient vulnerable groundwaters as designated by OWRB shall meet soil and litter testing and litter application rate requirements per 2 O.S. § 10-9.7(E).

(b) Application of USAP - In the event ODAFF engages in surface water monitoring, USAP as adopted by OWRB will be consulted to determine if beneficial uses have been impaired. All animal waste programs require no discharges from facilities, therefore USAP is not applicable. Any discharge will be a violation of the license and subject to enforcement action and possible fines.

(c) Description of programs affecting water quality.

(1) The Agricultural Environmental Management Services (AEMS) Division of ODAFF is responsible for the review of applications for animal feeding operations that meet size and type requirements. The division also investigates complaints received by the Department regarding animal waste issues that could affect water quality.
(2) In December 2012, ~~The~~the EPA authorized ODAFF to perform NPDES permitting pursuant to the CWA. ODAFF reviews NOIs for authorizations pursuant to a general permit and reviews applications for individual permits. AgPDES activities include CAFOs, pesticides, silviculture, and storm water at agricultural facilities.
(3) The animal waste program, pesticide program, fertilizer program, and forestry management program can affect groundwater and surface water beneficial uses if facilities are not designed and operated properly. The application process is targeted at removing the possible threat of pollution to the waters of the State by not allowing any discharge to surface water, except in limited circumstances, by promoting recycle and beneficial reuse of wastewater, by not permitting any hydrologic connection between waste storage facility and groundwater, by preparing or reviewing animal waste management plans, nutrient management plans, or equivalent documents, emphasizing best management practices and conservation measures, and by routine inspections of regulated CAFOs, LMFOs, and poultry feeding operations.

(d) Technical information and procedures for implementation.

(1) All programs are involved in regulating the animal and poultry feeding operations to assure that facilities meet the minimum requirements. The programs evaluate facility location, watershed, soils, groundwater data, stream data, flood information, water samples, manure and litter samples, and other pertinent information. The application process evaluates the potential effects of the proposed operation on the waters of the State to insure ~~that~~ both groundwater and surface water are not polluted. Potential impacts on beneficial uses designated in water quality standards will be further evaluated during the license application process to assist elimination of the threat to nutrient vulnerable groundwaters and nutrient impaired waters. Data collected from monitoring wells or soil test reports submitted by regulated operations will be evaluated to assess the potential impact on waters of the state. If noncompliance with operating requirements is found, technical assistance or appropriate enforcement measures will be used to bring regulated facilities into compliance with state laws and rules.
(2) The CAFO and poultry programs utilize a number of databases, software programs and models for implementation. These include: stream gage data from the U.S. Geological Survey; ~~Microsoft Access database and Microsoft Excel spreadsheet software~~SQL databases for water quality data information; ArcInfo and ArcView GIS, MapWindows+MMP Tool software data analysis and mapping; precipitation and evaporation data from the National Weather Service and Oklahoma Climatological Survey; maps and hydrologic information from the U.S Geological Survey, Oklahoma Geological Survey, and Oklahoma Water Resources Board; USDA NRCS Soil Surveys and Technical Standards; OSU Oklahoma Cooperative Extension Service Fact Sheets; and other tools, software, and other guidance related to manure management planning developed by EPA, universities, and professional organizations, the MMP (Manure Management Plan) developed by Purdue University. Models may be obtained or developed to analyze information and data to assist in meeting WQS as necessary.

(e) Integration of WQSIP into water quality management activities - ODAFF rules for these programs require compliance with WQS pursuant to 2 O.S. § 20-10 (B) (4) (c) and 20-48(B)(4)(c) ensure that watersheds and groundwater are adequately protected pursuant to 20-10 (B)(4)(h) and 20-48(B)(4)(f). Future changes in Water Quality Standards may require additional rules and policies. Amendments will be made as necessitated by those changes.

(f) Compliance with mandated statewide water quality requirements - ODAFF will comply with other statewide water quality requirements by participating in the update of WQS, and in updates of the state's Continuing Planning Process document, Integrated Report, water quality management plan and other planning efforts. ODAFF will continue to participate in the Nonpoint Source Working Group and will cooperate with the Oklahoma Conservation Commission and others involved in NPS pollution prevention programs. ODAFF will participate in the TMDL process as resources permit, and will make use of the Beneficial Use Monitoring Program data compiled in cooperation with other state environmental agencies to modify its water quality program as necessary.

(g) Public and interagency participation.

(1) ODAFF interacts with other environmental agencies through the Water Quality Standards Implementation Advisory Committee. The agencies review and comment on each agency's plan and consult with each other as needed.
(2) Public participation requirements of the Oklahoma Administrative Procedures Act are followed in promulgating rules that integrate water quality standards into these program areas.

(h) Evaluation of effectiveness of agency activities.

(1) The effectiveness of these programs in the protection of designated beneficial uses for designated stream segments will be evaluated utilizing the following processes: review and integration of CAFO monitoring well sampling, soil analysis, stream gage data from the U.S. Geological Survey, U.S. Army Corps of Engineers, Oklahoma Conservation Commission, and Oklahoma Water Resources Board, and all other available data.
(2) The swine LMFO monitoring well sampling and laboratory analysis project began in 2000. All LMFOs with more than 1,000 swine animal units were required by Senate Bill 1175 of 1998 [Title 2 O.S. § 20-12(F)] to install and maintain a leak detection system or sufficient monitoring wells both upgradient and downgradient around the perimeter of each waste retention structure. ODAFF is required by Title 2 O.S. § 20-12(F) to sample and laboratory analyze the samples from the LMFO monitoring wells at least annually. The LMFO monitoring well samples are required in Title 35, Chapter 17, Subchapter 3 of the CAFO Permanent Rules [35:17-3-11.(6)(H)] to be sampled and laboratory analyzed for electrical conductivity, pH, ammonium-nitrogen, nitrate-nitrogen, total phosphorus and fecal coliform bacteria. The information and data collected under this program is published in a report annually by ODAFF.
(3) ~~Groundwater samples from other wells are also taken from LMFO facilities during each annual inspection by ODAFF environmental specialists. These samples and some surface water samples are analyzed in accordance with procedures and protocol developed by ODAFF. Water well samples are also taken and analyzed on a voluntary basis from residents located in the vicinity of animal feeding operations. The latter sampling project has been in place since 1992.~~
~~(4)~~ In the event groundwater problems are identified, ODAFF will take steps to identify the sources of the problems. If CAFOs or LMFOs are identified as the source, appropriate remediation activities will be implemented.

35:45-1-8. Pesticide program [AMENDED]

(a) ODAFF regulates spills and misuse of pesticides associated with facilities and activities of licensed pesticide applicators, homeowners and farm applications. This includes improper storage and disposal of pesticides and pesticide containers.
(b) Compliance with antidegradation requirements and protection of beneficial uses.
(1) All pesticide programs and regulatory activities require no degradation of surface or groundwater by pesticide use. Pesticide labels contain warnings that the pesticide could contaminate surface and groundwater if misused or improperly disposed. ODAFF regulates spills and misuse of pesticides associated with facilities and activities of licensed pesticide applicators, homeowners and farm applications. This includes improper storage and disposal of pesticides and pesticide containers.
(2) Beneficial uses that could be impaired by improper handling and application of pesticides include Fish and Wildlife Propagation, Private and Public Water Supply, Recreation, and Agriculture. The potential for pesticides to enter ground water and surface water exist and is supported by the fact that several water bodies are classified as impaired by pesticides on the current 303(d) list. Pesticide residue in fish could render them unfit for human consumption. Antidegradation is automatically implemented because the presence of pesticide in any water is a violation of the standards no matter how the water body is classified.
(3) Recent spills and newly located polluted sites are remediated by the responsible party, or by the use of EPA superfund monies to the extent necessary to meet ODAFF goals. Pesticide remediation brings any impaired surface or groundwater back to the quality prior to the pesticide spill, including restoration of all beneficial uses pursuant to the WQS. Procedures for groundwater protection are covered in the ODAFF Generic Pesticide Management Plan in Groundwater.
(4) The certification of persons to become pesticide applicators involves training and testing of the individual in the safe use and handling of pesticides. Training includes information on how to read a pesticide label, pesticide storage, pesticide container disposal and proper procedures to follow in the event of a pesticide spill. The protection of surface water and groundwater is an integral part of the certification process.
(c) Application of USAP - The procedures for pesticide monitoring are outlined in the Quality Assurance Project Plan, the pesticide operating procedures and the Generic Pesticide Management Plan in Groundwater. USAP will be utilized in assessing beneficial uses of all monitored surface waters. USAP does not apply to groundwater at this time.
(d) Description of programs affecting water quality.
(1) The Consumer Protection Services Division of ODAFF is responsible for the licensing and certifying of pesticide applicators. ODAFF registers all pesticides distributed in the state and has authority to restrict the use of pesticides to prevent unreasonable risk to the quality of Oklahoma's water.

(2) Under the Generic Pesticide Management Plan, ODAFF will develop and implement point and non-point source prevention measures, participate in relaying use information, carry out monitoring, develop and implement response to detection, keep records of action taken and provide progress reports to EPA.
(3) ODAFF will also develop and maintain a statewide agriculture chemical database and a pesticide concerns list in regard to water quality standards.
(4) ODAFF licenses all commercial applicators of pesticides and requires the certification of private applicators before they can use restricted pesticides. When spills or other environmental problems, resulting from current or historic practices, are found, ODAFF's goal is to prevent impairment of the surface water and groundwaters of the state. This includes preventing significant risk to humans, livestock, or ecological receptors from inhalation of fumes, direct contact, or ingestion.
(5) The Consumer Protection Services Division assists AEMS Division with disseminating information related to AgPDES permit requirements for pesticides applicators and with reviewing permit applications or notices of intent submitted by permit applicators.
(6) Pesticide labels contain warnings that the pesticide could contaminate surface and groundwater if misused or improperly disposed. All ODAFF activities related to pesticides are geared toward maintaining WQS. Specific programs include the following:

(A) Certification of individuals and the licensing of companies to apply pesticides;
(B) Investigation of pesticide spills and misuse;
(C) Inspection of pesticide producer establishments;
(D) Inspection of pesticide applicator facilities for proper pesticide storage;
(E) Audit records of restricted use pesticide dealers;
(F) Conduct private applicator record keeping inspections;
(G) Monitor pesticide application at new construction sites;
(H) Requiring backflow prevention devices on chemigation wells, as well as requiring every applicator of pesticides to employ an appropriate method to prevent the backflow of spray materials during filling, mixing, or application operations. The method shall include, but not be limited to, the employment of a check valve or similar in-line device, or positive mechanical method, such as an air gap, designed to insure ~~that~~ backflow shall not occur;
(I) Monitoring the irrigation tailwater return flow on several large container nurseries on the Illinois River in Cherokee County; and
(J) Groundwater monitoring.

(e) Technical information and procedures for implementation - The pesticide program utilizes a number of databases, software programs and models for implementation. These include: Microsoft Access database and Microsoft Excel spreadsheet software for water quality data information; ArcInfo and ArcView GIS software data analysis and mapping; and pesticide leaching models from EPA to map and analyze data. EPA standards are used to calibrate laboratory equipment when analyzing for specific pesticides. Many cases will require samples to be taken. The Pesticide Inspectors Manual covers the procedures for taking, sealing and shipping pesticide samples to the lab. Sampling results become a part of the complaint file. Notice of violations, stop work orders, informal or formal hearings, cleanup orders, fines and referral to US EPA for federal prosecution are some of the enforcement actions available to the ODAFF in the event a water quality or other violation is found. The Oklahoma Combined Pesticide Law and Rules set the standards used in the storage, use and disposal of pesticides, pesticide containers, and pesticide waste.
(f) Integration of WQSIP into water quality management activities - Future changes in WQS may require additional rules and policies. Amendments will be made as necessitated by those changes.
(g) Compliance with mandated statewide water quality requirements - Compliance with statewide water quality requirements is the primary goal of the pesticide certification program, pesticide facility inspections, pesticide spill and misuse investigations and pesticide monitoring programs.
(h) Public and interagency participation.

(1) ODAFF has been charged with the regulatory responsibilities of agricultural activities that could impact the WQS of the waters of Oklahoma. The "Agricultural Resources Protection and Management Operation" document outlines standard operating procedures to fulfill this charge for the present and provides guidance for future needs. This document contains no new or modified authorities not subject to legislative approval. Should subsequent events call for law, rule or regulation changes or additions, these shall be subject to approvals in accordance with the APA or the legislative process.
(2) Public participation requirements of the APA were followed in promulgating rules that integrate water quality standards into this program area. Section III of this document contains a summary of comments received and responses relating to the promulgation of ODAFF's WQSIP.

(i) Evaluation of effectiveness of agency activities - The effectiveness of the pesticide programs will be evaluated through the routine monitoring of surface water and groundwater. Special monitoring may be initiated if potential sources of contamination are identified. USAP will assist in dictating surface water monitoring.

[OAR Docket #24-679; filed 6-26-24]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
CHAPTER 55. COMMERCIAL PET BREEDERS AND ANIMAL SHELTERS

[OAR Docket #24-680]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Licensing
35:55-1-4. License application [AMENDED]
35:55-1-6. Inspections [AMENDED]
35:55-1-8. Fees [AMENDED]
35:55-1-9. Annual report [REVOKED]
Subchapter 3. Standards of Care
35:55-3-2. Watering [AMENDED]
Subchapter 7. Recordkeeping and Sales
35:55-7-1. Records [AMENDED]
AUTHORITY:
Okla. Const., Art. 6, § 31; State Board of Agriculture; 2 O.S. § 2-4(A)(2); and 4 O.S. § 30.1 et seq.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2023
COMMENT PERIOD:
December 1, 2023 through January 5, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 26, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rule amendments requires that an applicant pay a prelicense inspection fee; adds language for a licensee to provide the Department notice if they intend to expand their operation; requires a second prelicense fee to be paid if an owner or operator fails to show for the arranged inspection; adds language that gives owner or operator additional time to fix deficiencies from inspection report; adds a prelicense inspection fee; revokes the annual report requirements; adds language for temperature and water requirements for animals housed in non-temperature controlled environments; and adds language for sanitation records.
CONTACT PERSON:
Kiersten Hamill, (405) 522-5803, e-mail address: at kiersten.hamill@ag.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. LICENSING

35:55-1-4. License application [AMENDED]
(a) The Oklahoma Department of Agriculture, Food, and Forestry shall issue a license to each commercial pet breeder or animal shelter operator who:
(1) Meets the requirements of the Commercial Pet Breeders and Animal Shelter Licensing Act;
(2) Applies to the Department on the form prescribed by the Department; and
(3) Pays the required ~~fee~~license and prelicense inspection fees.
(b) A commercial pet breeder or animal shelter operator shall obtain a separate license for each facility where breeding or shelter animals are kept. A separate license shall be issued for each facility of the commercial pet breeder or animal shelter operator, whether or not the facility has the requisite number of animals at each facility.
(c) If a single facility is shared by more than one person, each person shall be required to become individually licensed if the requisite number of animals are housed at the facility, unless all animals are combined on a single license.
(d) An applicant applying for a license shall submit a completed license application signed under oath containing the following information:
(1) Name, mailing address, telephone number, and email address, if any, of the applicant;
(2) Name, if different, physical address and telephone number of the facility, including driving directions from the nearest municipality;
(3) Name, address, telephone number, and email address, if any, of the operator of the facility, if different from the owner;
(4) If the applicant is an entity, association, trust, or corporation, the name and address of each member with an ownership of ten percent (10%) or more in the facility;
(5) If the applicant is an entity, the name, address, telephone number, and email address, if any, of the Oklahoma registered agent;
(6) The sales tax identification number of the commercial pet breeder, unless the commercial pet breeder only sells animals wholesale or the tax exempt identification number of the animal shelter;
(7) A list of the date, subject matter, and court or government entity for any individual required to be disclosed by this section for each of the following:
(A) Has ever been convicted of, or entered a plea of guilty or no contest, to any felony, or any crime involving animal cruelty, abuse, or neglect;
(B) Has ever received any adverse ruling from any court of competent jurisdiction or any administrative tribunal involving honesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence, or incompetence in a matter related to commercial pet breeding, or cruelty to animals;
(C) Has ever had an application for a license, registration, certificate, or endorsement related to pet breeding or animal care denied or rejected by any state or federal licensing authority in Oklahoma or another state;

(D) Whether any commercial pet breeder licensing board, kennel regulation board, animal shelter licensing authority, or similar agency or organization has ever revoked or suspended a license, registration, certificate, or endorsement;
(E) Has ever surrendered a license, registration, certificate, or endorsement to the Board or any state or federal commercial pet breeder or kennel licensing authority or animal shelter licensing authority, whether located in Oklahoma or elsewhere;
(8) Affidavit of Lawful Presence in the United States of America, as provided under 56 O.S. § 71;
(9) A notarized statement swearing that the information submitted on the application is true and correct;
(10) State the total number of animals owned by the commercial pet breeder on the date of application and identify how many of the animals are intact female animals, males, and juveniles or state the capacity of the animal shelter;
(11) The date of commencement of operations at that location; and
(12) Any other relevant information required by the Board.

(e) If an applicant submits an incomplete application or the Department requests additional information, the Department shall notify the applicant that the application is incomplete and identify the information on the application that is incomplete or needs additional information. The applicant ~~may~~ shall submit additional information within twenty (20) working days to supplement and complete the application. If the applicant does not respond to the request for additional information in a timely manner, the application shall be denied.
(f) An application may be withdrawn from consideration by the applicant at any time.
(g) Any commercial pet breeder or animal shelter operator whose application is denied due to failure to submit information in a timely manner or who withdrew the application may submit a new application and appropriate fees.
(h) Any license commercial pet breeder that intends to expand their operation's capacity to a higher level of license category shall submit notice to the Department within ten (10) days of the expansion.
(1) The notification shall be submitted on the application form prescribed by the Department.
(2) Payment shall be included with the application to pay the increase in license category due to the expansion and a prelicense inspection fee.

35:55-1-6. Inspections [AMENDED]

(a) The Oklahoma Department of Agriculture, Food, and Forestry may contract with a local veterinarian licensed by the state, other state agency or any other qualified person to conduct or assist in an initial prelicense inspection and annual inspections.
(b) The Department shall arrange for an inspection at a facility prior to issuance of an initial license for that facility.
(1) The Department shall not issue a license to any person until the Department receives an initial prelicense inspection report from the inspector in a format approved by the Department certifying that the facility meets the requirements of the Commercial Pet Breeders and Animal Shelter Licensing Act.
(2) Prior to the initial prelicense inspection, each applicant shall pay to the Department a nonrefundable inspection fee.
(3) Failure of the owner or operator to be present for the arranged inspection without twenty-four (24) notice shall result in a second prelicense inspection fee to be prior to arranging another inspection.
(c) The Department, at least annually, shall arrange for the inspection of each licensed facility. The inspection shall be conducted during normal business hours and the commercial pet breeder, animal shelter operator, or a representative shall be present during the inspection.
(d) The inspector shall submit an inspection report to the Department not later than ten (10) days after the date of the inspection on a form prescribed by the Department and provide a copy of the report to the commercial breeder, animal shelter operator, or the representative.
(1) The inspection report shall include an itemized list of violations, if any, and may include recommendations for correction.
(2) A copy of the inspection report shall be sent to the commercial pet breeder or animal shelter operator who shall have thirty (30) calendar days to correct any deficiencies.
(3) Following the thirty (30) calendar days to correct deficiencies, the inspector may conduct an unannounced follow-up inspection during normal business hours, or may request documentation of corrections to the Department within fourteen (14) calendar days of the request.
(4) During the prelicense or expansion prelicense inspection, if observed enclosures do not meet the requested capacity, the license or expansion shall not be approved. Prior to scheduling a follow-up inspection, and additional prelicense fee shall be due.

35:55-1-8. Fees [AMENDED]

The Board shall charge the following nonrefundable license or renewal fees:

(1) One (1) to ten (10) intact female animals: $125.00

(2) Eleven (11) to twenty (20) intact female animals: $200.00

(3) Twenty one (21) to fifty (50) intact female animals: $350.00

(4) Fifty one (51) to one hundred (100) intact female animals: $500.00

(5) One hundred and one (101) or more intact female animals: $650.00

(6) Animal shelter: $200.00

(7) If the commercial pet breeder or animal shelter operator submits a renewal application and fee after the expiration date, the commercial pet breeder or animal shelter operator shall pay double the renewal fee as a late charge and the filing of a late application shall be deemed a violation.

(8) Prelicense inspection fee for new or expanding: $100.

35:55-1-9. Annual report [REVOKED]

~~(a) Not later than February 1 of each year, a commercial pet breeder shall submit to the Oklahoma Department of Agriculture, Food, and Forestry an annual report on a form prescribed by the Department setting forth the number of adult intact female animals held at the facility at the end of the prior year and such other information regarding the commercial pet breeder's prior year's operations as required by the Department.~~

~~(1) Number of animals at the facility on December 31;~~

~~(2) Number of animals sold during the previous calendar year;~~

~~(3) Number of animals added to the facility during the previous calendar year;~~

~~(4) Number of animals removed from the facility during the previous calendar year;~~

~~(5) Number of mortalities during the previous calendar year;~~

~~(6) List of type, date of occurrence and number of mortalities due to any animal disease at the facility during the previous calendar year; and~~

~~(7) Number of animals exchanged or refunded from the facility.~~

~~(b) The commercial pet breeder shall keep a copy of the annual report at the facility of the commercial pet breeder and, on request, make the report available to the authorized agent of the Board, a local animal control authority, or any other inspector designated by the Department.~~

~~(c) A license holder that has more than one facility shall keep separate records and file a separate report for each facility.~~

SUBCHAPTER 3. STANDARDS OF CARE

35:55-3-2. Watering [AMENDED]

(a) If potable water is not continually available to the animals, it shall be offered to the animals as often as necessary to ensure their health and wellbeing, but not less than three (3) times daily for at least one (1) hour each time, unless restricted by the attending veterinarian.

(b) For animals housed in non-temperature controlled environments, potable water shall be continuously available when temperatures reach ninety-five (95) degrees Fahrenheit, unless restricted by the attending veterinarian.

SUBCHAPTER 7. RECORDKEEPING AND SALES

35:55-7-1. Records [AMENDED]

(a) A commercial pet breeder or animal shelter operator shall maintain a separate health record for each animal in the facility documenting the healthcare of the animal that shall include:

(1) The breed, sex, color, and identifying marks of the animal; and

(2) A record of all inoculations, medications, and other veterinary medical treatment received by the animal while in the possession of the commercial pet breeder or animal shelter operator.

(b) The commercial pet breeder or animal shelter operator shall make the health records available on request to the Oklahoma Department of Agriculture, Food, and Forestry, an authorized agent of the Board, a local animal control authority, or any other inspector designated by the Department.

(c) Commercial pet breeders or animal shelter operators shall create, maintain, and keep records of operations consisting of a list describing all pets that have been born, housed or kept in the facility at any time, and stating the disposition of all pets listed. In describing the disposition of any pet, the commercial pet breeder and animal shelter operator shall record the following:

(1) If the animal was sold or otherwise transferred, the manner and location of the sale, transfer, or other disposition, and the recipient's name and address, if the commercial pet breeder or animal shelter operator shipped or otherwise transported the animal to the recipient;
(2) That the pet is still on the premises, or
(3) If the pet died while at the facility, the date of death and cause of the death.

(d) Commercial pet breeders and animal shelter operators shall keep the following records of all sales or disposition of pets owned or has housed at the licensed facility:
(1) A description of each sold or disposed pet; and
(2) With respect to each pet list the date of transaction, the location of the transaction, whether the commercial pet breeder or animal shelter operator transported or shipped the pet for delivery, including the location of the recipient, the age of the pet, and the name and address of the recipient.

(e) Commercial pet breeders and animal shelter operators shall keep at their facility records of all pets purchased or otherwise acquired at any time during the preceding two (2) years, which record shall include the date of the transaction, the name and address of the seller, and a description of each pet received, including the age of each pet at the time it was acquired by the commercial pet breeder or animal shelter operator.

(f) Commercial pet breeders and animal shelter operators, if applicable, shall keep at their facility breeding records, which, for each adult female animal shall list the dates she was bred, the dates on which her puppies or kittens were born, and the number of puppies or kittens in each litter.

(g) For each pet, commercial pet breeders and animal shelter operators shall keep copies of documents evidencing the information that shall be contained in the pet breeder's records, including veterinary reports, sales receipts, and shipping invoices.

(h) A commercial pet breeder and animal shelter operator shall maintain all records for a minimum of two (2) years.

(i) Sanitization records shall include the date of sanitization and the method used.

[OAR Docket #24-680; filed 6-26-24]

TITLE 38. OKLAHOMA BOARD OF LICENSED ALCOHOL AND DRUG COUNSELORS
CHAPTER 10. LICENSURE AND CERTIFICATION OF ALCOHOL AND DRUG COUNSELORS

[OAR Docket #24-737]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 13. Continuing Education Requirements
38:10-13-2. Continuing education standards [AMENDED]
38:10-13-5. Failure to complete continuing education or submit verification [AMENDED]
AUTHORITY:
59 O.S., § 43B-1875-1 AND 1882; Oklahoma Board of Licensed Alcohol and Drug Counselors
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 15, 2023
COMMENT PERIOD:
December 15, 2023 through January 16, 2024
PUBLIC HEARING:
January 16, 2024
ADOPTION:
February 5, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 7, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Subchapter 13-2 is being amended to require that continuing education credit must consist of a minimum of one hour in length. Programs of more than one hour may be counted on 15 minute increments. Failure of a licensee to submit continuing education records may result in the forfeiture of the individual's rights and privilege granted by the license or certification. Subchapter 13-5 is amended to include candidates. Failure of a candidate to submit proof of completion of continuing education will result in automatic suspension of the authorization to practice. If the continuing education is not provided to the Board by April 1, the application will be void.
CONTACT PERSON:
Richard Pierson Executive Director P.O. Box 54388 Oklahoma City, Ok 73154 Phone: 405-521-0779 rpierson@okdrugcounselors.org

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 13. CONTINUING EDUCATION REQUIREMENTS

38:10-13-2. Continuing education standards [AMENDED]
(a) **Continuing education hours required.** As a requirement for license or certification renewal, twenty (20) clock hours of continuing education units shall be required for each license or certification held. These hours must have been obtained during the previous renewal period July through June and approved by the Board. At least three (3) hours must be categorized as ethics training as defined by the Board. At least ten (10) hours must be alcohol and drug specific as defined by the Board. For LADC/MH, the twenty (20) hours of continuing education hours must be on topics categorized by the Board as Co-Occurring, or consist of (10) hours on Mental Health topics and ten (10) hours on alcohol and drug specific topics as defined by the Board. The required hours may be completed through virtual meetings, on-demand online training, and in-person training "Virtual" means a live interactive video conference by an approved program that involves face-to-face interaction with a facilitator for the purpose of accomplishing specific learning objectives. No more than ten hours may be obtained through pre-recorded, on-demand online training.
(b) **Clock hours.** To be acceptable for continuing education credit, a continuing education program must consist of at least 1 hour of instruction. Continuing education programs of more than 1 hour of instruction are counted based on additional 15 minute increments. For example, a 75 minute program counts as 1.25 credits, a 90 minute program counts as 1.5 credits, and a 105 minute program counts as 1.75 credits.
(c) **Candidate requirements for continuing education.** Candidates who have been in the licensure process for more than one year must have at least three hours of continuing education in ethics each successive year until licensed. For each year of candidacy after the first year, the candidate must also obtain three hours of continuing education in addition to the three hours of ethics. Proof of completion of the continuing education required for applicants shall be submitted with the

application maintenance fee. Continuing education must be from approved providers to avoid additional fees and must meet all other requirements for continuing education.
~~(c)~~(d) **Continuing education approval.** Approval of continuing education shall be at the discretion of the Oklahoma Board of Licensed Alcohol and Drug Counselors and shall be in accordance with standards acceptable to the profession of alcohol and drug counseling. Requirements for the providers of continuing education are addressed in OAC 38:10-13-7.
~~(d)~~(e) **Armed services.** A licensed or certified person called to active duty in the Armed forces of the United States for a period of time exceeding one hundred and twenty (120) days during a calendar year shall be exempt from obtaining the continuing education required during that calendar year.
~~(e)~~(f) **Exemption.** A licensed or certified person experiencing physical disability, illness, or other extenuating circumstances may request partial or complete exemption from the continuing education requirements. The licensee or certified person shall provide supporting documentation for the Board's review. Such hardship cases will be considered by the Board on an individual basis.
~~(f)~~(g) **Prorating.** Licensees or certified persons upon initial certification will have their CEU hours prorated according to the date of their initial certification.

38:10-13-5. Failure to complete continuing education or submit verification [AMENDED]
(a) Failure of a licensee to complete continuing education requirements or submit such records shall constitute failure to renew a license or certification and may result in forfeiture of the individual's rights and privileges granted by the license or certificate.
(b) Failure of a candidate for licensure to complete continuing education requirements and submit proof of completion to the Board no later than December 31 of each year shall result in automatic suspension of the authorization to practice under the supervision as a candidate. The suspension will remain in effect until proof of completion of the continuing education is submitted to the Board. The application shall be deemed void if proof of completion is not submitted by April 1.

[OAR Docket #24-737; filed 7-2-24]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE
CHAPTER 10. PERSONNEL

[OAR Docket #24-731]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Purpose
40:10-1-1. Purpose [AMENDED]
Subchapter 7. Forensic Alcohol and Drug Analysts [REVOKED]
40:10-7-1. Qualifications and requirements for forensic alcohol analysts [REVOKED]
40:10-7-2. Qualifications and requirements for forensic drug analysts [REVOKED]
Subchapter 9. Blood Specimen Collectors [REVOKED]
40:10-9-1. Persons authorized to withdraw blood [REVOKED]
AUTHORITY:
Oklahoma Board of Tests for Alcohol and Drug Influence; 47 O.S. 759
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 19, 2023
COMMENT PERIOD:
November 15, 2023 through December 31, 2023
PUBLIC HEARING:
January 4, 2024
ADOPTION:
February 13, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 13, 2024
LEGISLATIVE APPROVAL:

N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rule amendments and revocations remove language in conflict with the state statute. The statutory language, 47 O.S. §759, was amended November 1, 2021, removing the Board's authority to approve and license analysts and authorized blood withdrawal personnel. The revoked rules are no longer effective.
CONTACT PERSON:
Joshua Smith, Director, Oklahoma Board of Tests for Alcohol and Drug Influence, BOT, 3600 N. Martin Luther King Ave, Oklahoma City, OK 73111, 405-425-2460, Joshua.Smith@bot.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. PURPOSE

40:10-1-1. Purpose [AMENDED]

The rules in this Chapter pertain to persons involved in various aspects of the conduct of tests for alcohol ~~and other intoxicating substances~~ under the provisions of Title 47 O.S., Sections 751-761 and 3 O.S., Section 303 and 63 O.S., Section 4210A, Oklahoma Statutes. These rules address standards and qualifications of breath-alcohol test operators ~~and supervisors, forensic alcohol and drug analysts, specimen collectors and other personnel,~~ and regulate initial issuance, renewal, ~~and~~ reinstatement, and revocation of permits for such persons.

SUBCHAPTER 7. FORENSIC ALCOHOL AND DRUG ANALYSTS [REVOKED]

40:10-7-1. Qualifications and requirements for forensic alcohol analysts [REVOKED]

~~(a) **Initial issuance of permits.** Persons performing analysis for alcohol of specimens of blood, or delayed analysis for alcohol of retained specimens of breath or of the retained alcohol content of specimens of breath, hereafter termed "forensic alcohol analysis," under the provision of Title 47, Oklahoma Statutes, shall possess at least the following qualifications and shall meet the following requirements, and shall be eligible for initial issuance of a Permit to perform such forensic alcohol analysis upon satisfying such qualifications and requirements. Such persons shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.~~

(1) **Qualifications.** Qualifications for forensic alcohol analysts (initial permits) are as follows:
(A) Residence within the State of Oklahoma.
(B) Minimum age of 21 years.
(C) Good moral character.
(D) At least the educational and experience requirements stipulated for clinical laboratory technologists, in the fields of clinical chemistry or toxicology, in the current implementing Federal regulations applicable to laboratories pursuant to the Clinical Laboratory Improvement Amendments of 1988 (P.L. No. 100-578), Title 42, Part 405 et al., Code of Federal Regulations, which are adopted in this Section by reference.
(E) At least **six (6) months** of the pertinent, full-time laboratory experience and/or training shall have been in a laboratory or laboratories meeting nationally-recognized standards for clinical or forensic laboratories, and shall have been in
(i) the field of blood-alcohol analysis or forensic toxicology or forensic chemistry or criminalistics, or
(ii) other pertinent biomedical or forensic laboratory activities.
(F) Competence to perform forensic alcohol analysis.
(2) **Requirements.** Requirements for forensic alcohol analysts (initial permits) are as follows:
(A) Submission of a properly completed application form for initial issuance of Permits, obtainable from the Board, together with the supporting documentation specified therein.
(B) Adequate access to suitable laboratory facilities meeting nationally-recognized standards for clinical or forensic laboratories.
(C) Establishment of the applicant's competence to perform forensic alcohol analysis. Such competence establishment shall be accomplished in accordance with generally-recognized procedures in forensic toxicology.

(b) **Renewal of permits.** Persons performing analysis for alcohol of specimens of blood, or delayed analysis for alcohol of retained specimens of breath or of the retained alcohol content of specimens of breath, under the provisions of Title 47, Oklahoma Statutes, who hold a current, valid Forensic Alcohol Analysis Permit issued by authority of the Board of Tests for Alcohol and Drug Influence shall be eligible for renewal of a Forensic Alcohol Analysis Permit upon satisfying the following qualifications and requirements. Such persons shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.
(1) **Qualifications.** Qualifications for forensic alcohol analysts (renewal permits) are as follows:
(A) Possession of all qualifications stipulated in this Rule for initial issuance of a Forensic Alcohol Analysis Permit.
(B) Continued competence to perform forensic alcohol analysis as defined above.
(C) Possession of a valid Forensic Alcohol Analysis Permit issued by authority of the Board of Tests for Alcohol and Drug Influence within the preceding twelve (12) months upon compliance with the Qualifications and Requirements then in force for initial issuance or for renewal of such Permit.
(2) **Requirements.** Requirements for forensic alcohol analysts (renewal permits) are as follows:
(A) Submission of a properly completed application form for renewal of Permits, obtainable from the Board, together with the supporting documentation specified therein.
(B) Continued adequate access to suitable laboratory facilities meeting nationally-recognized standards for clinical or forensic laboratories.
(C) Establishment, within one (1) year prior to renewal of the Forensic Alcohol Analysis Permit, of the applicant's continued competence to perform forensic alcohol analysis. Such continued competence establishment shall be accomplished in accordance with generally-recognized procedures in forensic toxicology.

(c) **Period of validity.** Forensic Alcohol Analysis Permits shall be valid for one (1) year from the date of issue, and shall be subject to earlier termination or revocation at the discretion of the Board.

40:10-7-2. Qualifications and requirements for forensic drug analysts [REVOKED]

(a) **Initial issuance of permits.** Persons performing analysis for drugs and other intoxicating substances (as defined in 47 O.S., Section 751) of specimens of blood, saliva, or, urine, hereafter termed "forensic drug analysis," under the provision of Title 47, Oklahoma Statutes, shall possess at least the following qualifications and shall meet the following requirements, and shall be eligible for initial issuance of a Forensic Drug Analysis Permit to perform such forensic drug analysis upon satisfying such qualifications and requirements. Such persons shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.

(1) **Qualifications.** Qualifications for forensic drug analysts (initial permits) are as follows:
(A) Residence within the State of Oklahoma.
(B) Minimum age of 21 years.
(C) Good moral character.
(D) At least the educational and experience requirements stipulated for clinical laboratory technologists, in the fields of clinical chemistry or toxicology, in the current implementing Federal regulations applicable to laboratories pursuant to the Clinical Laboratory Improvement Amendments of 1988 (P.L. No. 100-578), Title 42, Part 405 et al., Code of Federal Regulations, which are adopted in this Section by reference.
(E) At least **six (6) month** of the pertinent, full-time laboratory experience and/or training shall have been in a laboratory or laboratories meeting nationally-recognized standards for clinical or forensic laboratories, and shall have been in
(i) the field of drug analysis or forensic toxicology or forensic chemistry or criminalistics, or
(ii) other pertinent biomedical or forensic laboratory activities.
(F) Competence to perform forensic drug analysis.
(2) **Requirements.** Requirements for forensic drug analysts (initial permits) are as follows:
(A) Submission of a properly completed application form for initial issuance of Permits, obtainable from the Board, together with the supporting documentation specified therein.
(B) Adequate access to suitable laboratory facilities meeting nationally-recognized standards for clinical or forensic laboratories.
(C) Establishment of the applicant's competence to perform forensic drug analysis. Such competence establishment shall be accomplished in accordance with generally-recognized procedures in forensic toxicology.

(b) **Renewal of permits.** Persons performing analysis for drugs and other intoxicating substances (as defined in 47 O.S., §751) of specimens of blood, saliva, or urine under the provisions of Title 47, Oklahoma Statutes, who hold a current, valid Forensic Drug Analysis Permit issued by authority of the Board of Tests for Alcohol and Drug Influence shall be eligible for renewal of a Forensic Drug Analysis Permit upon satisfying the following qualifications and requirements. Such persons shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.
(1) **Qualifications.** Qualifications for forensic drug analysts (renewal permits) are as follows:
(A) Possession of all qualifications stipulated in this Rule for initial issuance of a Forensic Drug Analysis Permit.
(B) Continued competence to perform forensic drug analysis.
(C) Possession of a valid Forensic Drug Analysis Permit issued by authority of the Board of Tests for Alcohol and Drug Influence within the preceding twelve (12) months upon compliance with the Qualifications and Requirements then in force for initial issuance or for renewal of such Permit.
(2) **Requirements.** Requirements for forensic drug analysts (renewal permits) are as follows:
(A) Submission of a properly completed application form for renewal of Permits, obtainable from the Board, together with the supporting documentation specified therein.
(B) Continued adequate access to suitable laboratory facilities meeting nationally-recognized standards for clinical or forensic laboratories.
(C) Establishment, within one (1) year prior to renewal of the Forensic Drug Analysis Permit, of the applicant's continued competence to perform forensic drug analysis. Such continued competence establishment shall be accomplished in accordance with generally-recognized procedures in forensic toxicology.

(c) **Period of validity.** Forensic Drug Analysis Permits shall be valid for one (1) year from the date of issue, and shall be subject to earlier termination or revocation at the discretion of the Board.

SUBCHAPTER 9. BLOOD SPECIMEN COLLECTORS [REVOKED]

40:10-9-1. Persons authorized to withdraw blood [REVOKED]

(a) **Authority to withdraw blood.** Licensed medical doctors, licensed osteopathic physicians, registered nurses, licensed practical nurses, personnel licensed in accordance with 63 O.S. §1-2505 as Intermediate Emergency Medical Technician, Advanced Emergency Medical Technician, or Paramedicacting within the limits of protocols established by the applicable medical director and other persons designated by law (47 O.S., Section 752) or who otherwise hold a certification or designation as a phlebotomist and has been approved by the medical facility for which they are employed are authorized to

~~withdraw blood for the purpose of determining the concentration of alcohol or other intoxicating substance therein, when acting at the request of a law enforcement officer or of an arrested person under the provisions of Title 47 and 3 O.S., Section 303 and 63 O.S., Section 4210A, Oklahoma Statutes.~~
~~(b) **Permits.** The current and valid license, registration, practice certificate or other official document entitling its holder to engage in the practice of the respective profession or practice, issued by the respective healing arts licensing body to any qualified practitioner enumerated above is deemed by the Board of Tests for Alcohol and Drug Influence to be a valid Permit to Withdraw Blood under the provisions of Title 47 and 3 O.S., Section 303 and 63 O.S., Section 4210A, Oklahoma Statutes.~~

[OAR Docket #24-731; filed 7-2-24]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE
CHAPTER 15. LABORATORIES AND FACILITIES [REVOKED]

[OAR Docket #24-732]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
40:15-1-1. Purpose [REVOKED]
40:15-1-2. Forensic alcohol analysis laboratories [REVOKED]
40:15-1-3. Forensic drug analysis laboratories [REVOKED]
AUTHORITY:
Oklahoma Board of Tests for Alcohol and Drug Influence; 47 O.S. 759
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 19, 2023
COMMENT PERIOD:
November 15, 2023 through December 31, 2023
PUBLIC HEARING:
January 4, 2024
ADOPTION:
February 13, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 13, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

The rule amendments and revocations remove language in conflict with the state statutes. The statutory language, 47 O.S. §759, was amended November 1, 2021, removing the Board's authority to approve and license laboratories. The proposed revoked rules are no longer effective.

CONTACT PERSON:

Joshua Smith, Director, Oklahoma Board of Tests for Alcohol and Drug Influence, BOT, 3600 N. Martin Luther King Ave, Oklahoma City, OK 73111, 405-425-2460, Joshua.Smith@bot.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

40:15-1-1. Purpose [REVOKED]

~~The rules in this Chapter concern approval and regulation by the Board of forensic alcohol laboratories, forensic drug laboratories, and other facilities involved in tests for alcohol and other intoxicating substances under the provisions of Title 47 O.S., Sections 751-761 and 3 O.S., Section 303 and 63 O.S., Section 4210A, Oklahoma Statutes. They include qualifications and requirements for initial issuance and renewal of permits for such entities. All forensic laboratories and facilities that are ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accredited, or as defined in 74 O.S. § 150.37 (Forensic Laboratory Accreditation Act) are exempt from these rules.~~

40:15-1-2. Forensic alcohol analysis laboratories [REVOKED]

(a) **Approval.** ~~Any laboratory in which analysis for alcohol of specimens of blood, hereafter termed "forensic alcohol analysis," is performed under the provisions of Title 47or 3 O.S., Section 303 or 63 O.S., Section 4210A, Oklahoma Statutes, shall possess at least the following qualifications and shall meet the following requirements. Any laboratory complying with such qualifications and requirements shall be deemed by this Board to be a Forensic Alcohol Laboratory approved by the Board of Tests for Alcohol and Drug Influence, and shall be entitled to issuance of a Forensic Alcohol Laboratory Permit. Such laboratory shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.~~

(1) **Qualifications.** ~~Qualifications for forensic alcohol analysis laboratories (initial permits) are as follows:~~

~~(A) All forensic laboratories and facilities that are ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accredited, or as defined in 74 O.S. § 150.37 (Forensic Laboratory Accreditation Act), or permitted by the Board of Tests, may perform testing regardless of location.~~

~~(B) Possession of all current and valid Federal, State, and local licenses and permits required to engage in the activities and operations carried out by or in the laboratory, and compliance with all current Federal, State, and local requirements for such activities and operations.~~

~~(C) The laboratory shall be at least one (1) of the following:~~

~~(i) A clinical laboratory located within and operated and controlled by an institution which is currently licensed by the Oklahoma State Department of Health as a general hospital, and which is currently accredited as a general hospital by the Joint Commission on Accreditation of Healthcare Organizations. Such clinical laboratory shall be directed by a qualified doctoral-level director.~~

~~(ii) A clinical laboratory which is currently Federally licensed and/or approved under the implementing Federal regulations applicable to laboratories pursuant to the Federal Clinical Laboratory Improvement Amendments of 1988 (P.L. No. 100-578) for the performance of clinical chemistry and/or toxicology procedures, Title 42, Part 405 et al., Code of Federal Regulations, adopted in this Section by reference. Such clinical laboratory shall be directed by a qualified doctoral-level director.~~

~~(iii) A central or branch forensic laboratory operated and controlled by the Oklahoma State Bureau of Investigation.~~

(iv) A forensic laboratory operated and controlled by a county or municipal law enforcement agency.

(v) The Toxicology/Forensic Science Laboratories of The University of Oklahoma Health Sciences Center.

(D) The laboratory shall regularly employ or have on its permanent staff at least one (1) person holding a currently valid Forensic Alcohol Analysis Permit issued by the Board of Tests for Alcohol and Drug Influence.

(E) The laboratory shall have space, facilities, equipment, and apparatus adequate and appropriate for the performance of forensic alcohol analysis.

(2) **Requirements.** Requirements for forensic alcohol analysis laboratories (initial permits) are as follows:

(A) Submission of a properly completed application form for Initial Approval, obtainable from the Board, together with all supporting documentation specified therein.

(B) Maintenance of an adequate and appropriate quality assurance program and activities in forensic alcohol analysis, meeting nationally-recognized standards.

(C) Regular and satisfactory participation and performance in any program of proficiency testing in forensic alcohol analysis conducted by or on behalf of the Board of Tests for Alcohol and Drug Influence, or required by the Board.

(D) Regular and satisfactory participation and performance in any program of proficiency testing in clinical chemistry or toxicology in which the laboratory is voluntarily enrolled or required to be enrolled as a condition of Federal or state licensure or approval.

(b) **Renewal of approval.** Laboratories which have been approved by the Board of Tests for Alcohol and Drug Influence for performance of forensic alcohol analysis and which hold a current valid Forensic Alcohol Laboratory Permit shall be eligible for renewal of such Permit upon satisfying the following qualifications and requirements. Such laboratory shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.

(1) **Qualifications.** Qualifications for forensic alcohol analysis laboratories (renewal permits) are as follows:

(A) Possession of all qualifications stipulated in this Rule for Initial Approval as a Forensic Alcohol Laboratory.

(B) Possession of a valid Forensic Alcohol Laboratory Permit issued by authority of the Board of Tests for Alcohol and Drug Influence within the preceding twelve (12) months upon compliance with the Qualifications and Requirements then in force for, Initial Approval or for Renewal of Approval as a Forensic Alcohol Laboratory.

(2) **Requirements.** Requirements for forensic alcohol laboratories (renewal permits) are as follows:

(A) Submission of a properly completed application form for Renewal of Approval, obtainable from this Board, together with all supporting documentation specified therein.

(B) Continued satisfactory participation and performance in the quality assurance and proficiency testing programs and activities stipulated in this Section as requirements for Initial Approval.

(c) **General conditions of approval.** The following general and continued conditions of Approval apply to every Forensic Alcohol Laboratory.

(1) Every such Laboratory may be inspected periodically, during its normal working hours, by the State Director of Tests for Alcohol and Drug Influence or by the State Director's duly authorized representative(s). Such inspection may include examination of the Laboratory's pertinent files and records, as well as its facilities.

(2) Every such Laboratory shall maintain a current file of all methods and procedures employed in such Laboratory for forensic alcohol analysis.

(3) Every such Laboratory shall maintain and retain at least the following records for a period of at least three (3) years from the date of origin of such records:

(A) An up-to-date record of persons in its employ or on its staff who are or were engaged in the performance of forensic alcohol analysis. Such records shall include, at least, the inclusive employment dates, qualifications of each such person, and any continuing education or training pertinent to forensic alcohol analysis received by each such person within or outside of the Laboratory.

(B) Records of specimens received by and subjected to forensic alcohol analysis within the Laboratory under the provisions of Title 47 or Title 3 or Title 63, Oklahoma Statutes, including all pertinent dates and times, identification of such specimens, results obtained and reported, and the identity of the person(s) who performed each such analysis.

(C) Records of the internal and external quality assurance programs and proficiency testing activities and results, in or pertinent to forensic alcohol analysis, in which the Laboratory participates or has participated.

(4) Every such Laboratory shall be operated and shall perform its forensic alcohol activities in substantial compliance with applicable nationally-recognized standards of good laboratory practice.
(5) In every such Laboratory, forensic alcohol analysis shall be performed only by methods and procedures approved by the Board of Tests for Alcohol and Drug Influence, and only by persons holding valid Forensic Alcohol Analysis Permits.

(d) **Period of validity.** Forensic Alcohol Laboratory Approval and Forensic Alcohol Laboratory Permits shall be valid for one (1) year from the date of Approval or the date of Permit issuance, respectively, and shall be subject to earlier suspension, termination, or revocation at the discretion of the Board.

40:15-1-3. Forensic drug analysis laboratories [REVOKED]

(a) **Approval.** Any laboratory in which analysis for drugs and other intoxicating substancesin specimens of blood, hereafter termed "forensic drug analysis," is performed under the provisions of Title 47 or 3 O.S., Section 303 or 63 O.S., Section 4210A, Oklahoma Statutes, shall possess at least the following qualifications and shall meet the following requirements. Any laboratory complying with such qualifications and requirements shall be deemed by this Board to be a Forensic Drug Laboratory approved by the Board of Tests for Alcohol and Drug Influence and shall be entitled to issuance of a Forensic Drug Laboratory Permit. Such Laboratory shall continue to satisfy such qualifications and requirements as a condition of the continued validity of such Permit.

(1) **Qualifications.** Qualifications for forensic drug analysis laboratories (initial permits) are as follows:

(A) All forensic laboratories and facilities that are ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accredited, or as defined in 74 O.S. § 150.37 (Forensic Laboratory Accreditation Act), or permitted by the Board of Tests, may perform testing regardless of location.

(B) Possession of all current and valid Federal, State, and local licenses and permits required to engage in the activities and operations carried out by or in the laboratory, and compliance with all current Federal, State, and local requirements for such activities and operations.

(C) The laboratory shall be at least one (1) of the following:

(i) A clinical laboratory located within and operated and controlled by an institution which is currently licensed by the Oklahoma State Department of Health as a general hospital, and which is currently accredited as a general hospital by the Joint Commission on Accreditation of Healthcare Organizations. Such clinical laboratory shall be directed by a qualified doctoral-level director.

(ii) A clinical laboratory which is currently Federally licensed and/or approved under the implementing Federal regulations applicable to laboratories pursuant to the Federal Clinical Laboratory Improvement Amendments of 1988 (P.L. No. 100-578), for the performance of clinical chemistry and/or toxicology procedures, Title 42, Part 405 et al., Code of Federal Regulations, adopted in this Section by reference. Such clinical laboratory shall be directed by a qualified doctoral-level director.

(iii) A central or branch forensic laboratory operated and controlled by the Oklahoma State Bureau of Investigation.

(iv) A forensic laboratory operated and controlled by a county or municipal law enforcement agency.

(v) The Toxicology/Forensic Science Laboratories of The University of Oklahoma Health Sciences Center.

(D) The laboratory shall regularly employ or have on its permanent staff as least one (1) person holding a currently valid Forensic Drug Analysis Permit issued by the Board of Tests for Alcohol and Drug Influence.

(E) The laboratory shall have space, facilities, equipment, and apparatus adequate and appropriate for the performance of forensic drug analysis.

(2) **Requirements.** Requirements for forensic drug analysis laboratories (initial permits) are as follows:

(A) Submission of a properly completed application form for Initial Approval, obtainable from the Board, together with all supporting documentation specified therein.

(B) Maintenance of an adequate and appropriate quality assurance program and activities in forensic drug analysis, meeting nationally-recognized standards.

(C) Regular and satisfactory participation and performance in any program of proficiency testing in forensic drug analysis conducted by or on behalf of the Board of Tests for Alcohol and Drug Influence, or required by the Board.

~~(D) Regular and satisfactory participation and performance in any program of proficiency testing in clinical chemistry or toxicology in which the laboratory is voluntarily enrolled or required to be enrolled as a condition of Federal or state licensure or approval.~~

~~(b) **Renewal of approval.** Laboratories which have been approved by the Board of Tests for Alcohol and Drug Influence for performance of forensic drug analysis and which hold a current valid Forensic Drug Laboratory Permit shall be eligible for renewal of such Permit upon satisfying the following qualifications and requirements as a condition of the continued validity of such Permit.~~

~~(1) **Qualifications.** Qualifications for forensic drug laboratories (renewal permits) are as follows:~~

~~(A) Possession of all qualifications stipulated in this Rule for Initial Approval as a Forensic Drug Laboratory.~~

~~(B) Possession of a valid Forensic Drug Laboratory Permit issued by authority of the Board of Tests for Alcohol and Drug Influence within the preceding twelve (12) months upon compliance with the Qualifications and Requirements then in force for Initial Approval or for Renewal of Approval as a Forensic Drug Laboratory.~~

~~(2) **Requirements.** Requirements for forensic drug analysis laboratories (renewal permits) are as follows:~~

~~(A) Submission of a properly completed application form for Renewal of Approval, obtainable from the Board, together with all supporting documentation specified therein.~~

~~(B) Continued satisfactory participation and performance in the quality assurance and proficiency testing programs and activities stipulated in this Section as requirements for Initial Approval.~~

~~(c) **General conditions of approval.** The following general and continued conditions of Approval apply to every Forensic Drug Laboratory.~~

~~(1) Every such Laboratory may be inspected periodically, during its normal hours, by the State Director of Tests for Alcohol and Drug Influence or by the State Director's duly authorized representative(s). Such inspection may include examination of the Laboratory's pertinent files and records, as well as its facilities.~~

~~(2) Every such Laboratory shall maintain a current file of all methods and procedures employed in such Laboratory for forensic drug analysis.~~

~~(3) Every such Laboratory shall maintain and retain at least the following records for a period of at least three (3) years from the date of origin of such records:~~

~~(A) An up-to-date record of persons in its employ or on its staff who are or were engaged in the performance of forensic drug analysis. Such records shall include, at least, the inclusive employment dates, qualifications of each such person, and any continuing education or training pertinent to forensic drug analysis received by each such person within or outside of the Laboratory.~~

~~(B) Records of specimens received by and subjected to forensic drug analysis within the Laboratory under the provisions of Title 47 or Title 3 or Title 63, Oklahoma Statutes, including all pertinent dates and times, identification of such specimens, results obtained and reported, and the identity of the person(s) who performed each analysis.~~

~~(C) Records of the internal and external quality assurance programs and proficiency testing activities and results, in or pertinent to forensic drug analysis,~~

~~(4) Every such Laboratory shall be operated and shall perform its forensic drug activities in substantial compliance with applicable nationally-recognized standards of good laboratory practice.~~

~~(5) In every such Laboratory, forensic drug analysis shall be performed only by methods and procedures approved by the Board of Tests for Alcohol and Drug Influence, and only by persons holding valid Forensic Drug Analysis Permits.~~

~~(d) **Period of validity.** Forensic Drug Laboratory Approval and Forensic Drug Laboratory Permits shall be valid for one (1) year from the date of Approval or the date of Permit issuance, respectively, and shall be subject to earlier suspension, termination, or revocation at the discretion of the Board.~~

[OAR Docket #24-732; filed 7-2-24]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE
CHAPTER 25. DEVICES, EQUIPMENT, AND REFERENCE STANDARDS

[OAR Docket #24-733]

RULEMAKING ACTION:

PERMANENT final adoption
RULES:
40:25-1-1.1. Definitions [AMENDED]
AUTHORITY:
Oklahoma Board of Tests for Alcohol and Drug Influence; 47 O.S. 759
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 19, 2023
COMMENT PERIOD:
November 15, 2023 through December 31, 2023
PUBLIC HEARING:
January 4, 2024
ADOPTION:
February 13, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 13, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rule amendment updates the language to reference a statutory definition.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

40:25-1-1.1. Definitions [AMENDED]

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

"Alcohol" means Ethyl Alcohol, also defined as ethanol.

"Breath alcohol test" means the collection and analysis of a person's expired alveolar breath to determine alcohol concentration.

"Director" means the position of the State Director of the Board as defined in O.A.C. 40:1-1-3.

"Device" means an object, machine, or piece of equipment made or adapted for a particular purpose, especially a piece of mechanical or electronic equipment that analyzes or measures, i.e. evidential breath alcohol analyzers such as the Intoxilyzer 8000 or other evidential toxicological measurement instrumentation.

"Equipment" means the technical equipment or machinery needed for a particular activity or purpose that does not analyze, i.e. breath alcohol simulator.

"Other intoxicating substances" means as defined in ~~O.A.C. 40:40-1-2~~47 O.S. §1-140.1.

"Other items" means sanitary or other items that require no authorization or approval by the Board and are commonly used in the process of administering breath, oral fluid, or blood collections and do not impact the test analysis or results. Such item examples include but are not limited to hypodermic needles, iodine pads, mouthpieces, saliva traps, syringes, and other universal precaution items."

"Reference/uniform standard" means any external control or National Institute of Standards and Technology (NIST) traceable gas or solution/liquid.

[OAR Docket #24-733; filed 7-2-24]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE
CHAPTER 35. ANALYSIS OF ALCOHOL IN BLOOD [REVOKED]

[OAR Docket #24-734]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
40:35-1-1. Purpose [REVOKED]
40:35-1-2. Approved methods for blood-alcohol analysis [REVOKED]
40:35-1-3. Analysis of blood specimens for alcohol [REVOKED]
AUTHORITY:
Oklahoma Board of Tests for Alcohol and Drug Influence; 47 O.S. 759
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 19, 2023
COMMENT PERIOD:
November 15, 2023 through December 31, 2023
PUBLIC HEARING:
January 4, 2024
ADOPTION:
February 13, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 13, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:

N/A

REGISTER PUBLICATION:

N/A

DOCKET NUMBER:

N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

The rule amendments and revocations remove language in conflict with the state statutes. The statutory language, 47 O.S. §759, was amended November 1, 2021, removing the Board's authority regarding blood analysis. The revoked rules are no longer effective.

CONTACT PERSON:

Joshua Smith, Director, Oklahoma Board of Tests for Alcohol and Drug Influence, BOT, 3600 N. Martin Luther King Ave, Oklahoma City, OK 73111, 405-425-2460, Joshua.Smith@bot.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

40:35-1-1. Purpose [REVOKED]

~~The rules in this Chapter concern analysis of alcohol in specimens of blood under the provisions of Title 47 O.S., Sections 751-761 and 3 O.S., Section 303 and 63 O.S., Section 4210A,Oklahoma Statutes. They include designation by the Board of approved methods and procedures for blood-alcohol analysis, and apply to analysis of the State's blood specimens and to retained blood specimens. All forensic laboratories and facilities that are ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accredited, or as defined in 74 O.S. § 150.37 (Forensic Laboratory Accreditation Act) are exempt from these rules.~~

40:35-1-2. Approved methods for blood-alcohol analysis [REVOKED]

~~The Board of Tests for Alcohol and Drug Influence hereby declares the following, identified by reference sources and successors thereto incorporated herein by reference, to be satisfactory techniques for performance of chemical tests for alcohol in specimens of blood.~~

~~(1) **The Wallace and Dahl gas chromatographic method.** Wallace, J. E. And Dahl, E. V., Rapid Vapor Phase Method for Determining Ethanol in Blood and Urine by Gas Chromatography, Am. J. Clin. Path. 46; 152-154 (1960).~~

~~(2) **The Dubowski gas chromatographic method (automated).** Dubowski, K. M.; MANUAL FOR ANALYSIS OF ETHANOL IN BIOLOGICAL LIQUIDS, Report No. DOT-TSC-NHTSA-76-4 (HS 802208), U.S. Department of Transportation, National Highway Traffic Safety Administration, Washington, D.C. 20590, January 1977. (Available from NTIS, Springfield, Virginia 22161.~~

~~(3) **The Dubowski gas chromatographic method (manual).** Dubowski, K. M.; Ethanol, in Methodology for Analytical Toxicology, I. Sunshine Ed., CRS Press, Cleveland 1979, pp. 149-154.~~

40:35-1-3. Analysis of blood specimens for alcohol [REVOKED]

~~(a) **Methods and procedures.** Analysis of State's or retained blood specimens for alcohol may be carried out by any method or procedure approved by authority of the Board of Tests for Alcohol and Drug Influence.~~

~~(b) **Laboratory and analyst.** Analysis of a State's or retained blood specimen shall be carried out only and in its entirety in the Forensic Alcohol Laboratory, approved by the Board of Tests for Alcohol and Drug Influence, to which such retained blood specimen was originally sent or delivered by the law enforcement agency responsible for its collection. Such analysis shall be performed by a person holding a currently valid Forensic Alcohol Analysis Permit, issued by authority of the Board of Tests for Alcohol and Drug Influence.~~

~~(c) **Reporting results.** The results of analyses for alcohol of State's or retained blood specimens shall be reported in terms of the concentration of alcohol in the subject's blood, in grams per one hundred (100) milliliters of blood (g/100 mL), and shall be stated to the second or third decimal place (0.XX g/100 mL or 0.XXX g/100mL). Results of analyses of retained blood specimens which are within three-hundredths (0.030) grams of alcohol per one hundred (100) milliliters of blood of the results of the corresponding analysis performed upon the State's blood specimen obtained from the same subject shall be deemed confirmatory and substantiative of such blood-alcohol analysis results on the State's blood specimen, as a scientifically acceptable tolerance.~~

[OAR Docket #24-734; filed 7-2-24]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE
CHAPTER 40. ANALYSIS OF OTHER INTOXICATING SUBSTANCES [REVOKED]

[OAR Docket #24-735]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
40:40-1-1. Purpose [REVOKED]
40:40-1-2. Analysis of other intoxicating substances in blood [REVOKED]
AUTHORITY:
Oklahoma Board of Tests for Alcohol and Drug Influence; 47 O.S. 759
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 19, 2023
COMMENT PERIOD:
November 15, 2023 through December 31, 2023
PUBLIC HEARING:
January 4, 2024
ADOPTION:
February 13, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 13, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

The rule amendments and revocations remove language in conflict with the state statutes. The statutory language, 47 O.S. §759, was amended November 1, 2021, removing the Board's authority regarding blood analysis. The revoked rules are no longer effective.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

40:40-1-1. Purpose [REVOKED]

~~The rules in this Chapter concern analysis of blood and other specimens for "other intoxicating substances" (i.e., substances and drugs, other than ethyl alcohol) under the provisions of Title 47 O.S., Section 751-761 and Title 3 O.S., Section 303 and Title 63 O.S., Section 4210A, Oklahoma Statutes. They include standards, requirements, and conditions for performance of such tests, and prescribe specimens, parameters for initial and confirmatory analyses, quality assurance practices, and reporting practices. All forensic laboratories and facilities that are ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accredited, or as defined in 74 O.S. § 150.37 (Forensic Laboratory Accreditation Act) are exempt from these rules.~~

40:40-1-2. Analysis of other intoxicating substances in blood [REVOKED]

~~(a) **General conditions.**~~

~~(1) The term "other intoxicating substance" shall mean any controlled dangerous substance as defined in Title 63 of the Oklahoma Statutes, and any other substance, other than alcohol, which is capable of being ingested, inhaled, injected, or absorbed into the human body and is capable of adversely affecting the central nervous system, vision, hearing or other sensory or motor functions.~~

~~(2) Analysis of blood specimens for identification and/or quantitation of other intoxicating substances contained therein shall be performed in substantial compliance with the provisions of this Section.~~

~~(3) Forensic Drug Laboratories and Forensic Drug Analysts performing analysis of other intoxicating substances in specimens of blood shall comply substantially with applicable generally recognized standards of good laboratory practice.~~

~~(4) In the analysis of other intoxicating substances in specimens of blood, the laboratory and analyst(s) shall comply with generally recognized procedures and safeguards for forensic analytical toxicology. Appropriate measures shall be taken to safeguard the identity, integrity, and composition of all specimens and to exclude tampering with and unauthorized access to or exchange or loss of specimens, and to provide the requisite security for evidentiary purposes.~~

~~(5) Analysis of State's or retained blood specimens for other intoxicating substances may be carried out by any method or procedure approved by authority of the Board of Tests for Alcohol and Drug Influence.~~

~~(6) Analysis of blood or blood components for other intoxicating substances shall be performed in compliance with applicable Analysis Protocol(s) and Procedure(s) generally-recognized by competent authorities in forensic toxicology. Such Analysis Protocol(s) and Procedure(s) shall conform, to the extent applicable, to the criteria and specifications set forth hereinafter in this Section. Methods and tests for the analysis of other intoxicating substances set forth in such applicable Analysis Protocol(s) and Procedure(s) shall be deemed to be approved by the Board of Tests for Alcohol and Drug Influence.~~

~~(b) **Facilities and analysts.**~~

~~(1) Analysis of a State's or retained blood specimen shall be carried out only and in its entirety in a Forensic Drug Laboratory approved by the Board of Tests for Alcohol and Drug Influence.~~

~~(2) Such analysis shall be performed by qualified personnel employed by the laboratory.~~

~~(c) **Specimens.**~~

~~(1) Analysis of other intoxicating substances may be carried out upon specimens of whole blood or any of its components, including plasma and serum. A homogenized mixture of clotted blood and serum may also be used as a specimen.~~

~~(2) Blood specimens may contain adequate and appropriate anticoagulant(s) and preservative(s), but no other additives.~~

~~(d) **Methods and procedures.** Methods and procedures shall be carried out in compliance with ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accreditation.~~

~~(e) **Quality assurance.** Quality assurance shall be carried out in compliance with ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accreditation.~~

~~(f) **Records and reports.** Record keeping and reporting shall be carried out in compliance with ISO/IEC (International Organization of Standards/International Electrotechnical Commission) 17025 accreditation.~~

[OAR Docket #24-735; filed 7-2-24]

TITLE 40. BOARD OF TESTS FOR ALCOHOL AND DRUG INFLUENCE
CHAPTER 50. IGNITION INTERLOCK

[OAR Docket #24-736]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Ignition Interlock Devices, Service Centers, Technicians
40:50-1-2.2. Annual recertification [AMENDED]
40:50-1-6.1. Removal requirements [AMENDED]
40:50-1-7.2. Annual renewal [AMENDED]
AUTHORITY:
Oklahoma Board of Tests for Alcohol and Drug Influence; 47 O.S. 6-212.5; 47 O.S. 759
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 19, 2023
COMMENT PERIOD:
November 15, 2023 through December 31, 2023
PUBLIC HEARING:
January 4, 2024
ADOPTION:
February 13, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 13, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rule amendments clarify requirements for interlock device removal, device recertification, and service center license renewal.
CONTACT PERSON:
Joshua Smith, Director, Oklahoma Board of Tests for Alcohol and Drug Influence, BOT, 3600 N. Martin Luther King Ave, Oklahoma City, OK 73111, 405-425-2460, Joshua.Smith@bot.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. IGNITION INTERLOCK DEVICES, SERVICE CENTERS, TECHNICIANS

40:50-1-2.2. Annual recertification [AMENDED]

(a) All certifications expire June 30th of each year unless revoked by the Board.
(b) The annual recertification of a certified device shall be the same as the device certification process stated in this title. The Board shall designate a renewal period within which the annual recertification process shall be allowed.
(c) Any request(s) to renew a device certification may be denied if there is pending action against the manufacturer, manufacturer representative or vendor for any violation of these rules or outstanding invoices payable to the Board.
(d) Any request(s) to renew a device certification may be denied if a manufacturer or their representative and/or vendor:
(1) fails to respond and resolve device compliance issues; or
(2) fails to provide training, equipment, devices, wiring harnesses, or any other materials required for interlock services such as, but not limited to, installation, maintenance, calibration, and removal at any licensed service center.

40:50-1-6.1. Removal requirements [AMENDED]

The device shall be removed according to the following guidelines:
(1) The only person(s) allowed to remove or observe the removal of the device are ignition interlock technicians licensed by the Board.
(2) A designated waiting area that is separate from the removal area is to be provided for the participant.
(3) Removal shall consist of removal of the device, harness, relay and all third-party materials used to initially install the device, thereby returning the vehicle and its wiring to normal manufacturer operation.
~~(3)~~(4) Adequate security measures shall be taken to ensure that unauthorized personnel cannot gain access to proprietary materials or files of other participants.
~~(4)~~(5) All data contained in the data storage system shall be retrieved in conjunction with removal of the device. Records may be maintained electronically.
~~(5)~~(6) Upon completion of the removal of the device, harness, relay and all third-party materials used to initially install the device, the licensed ignition interlock technician shall:
(A) Provide the participant a report showing the removal of the device, and
(B) Notify the Board in the form and/or format designated by the Board.
(C) Notify the installation and monitoring authority in the form and format designated by the Board.
~~(6)~~(7) Outside the State of Oklahoma, the technician or service center appropriately authorized pursuant to their jurisdictional authority, shall upon completion of the removal of the device, harness, relay and all third-party materials used to initially install the device:
(A) Provide the participant a report showing the removal of the device, and
(B) Notify the Board in the form and/or format designated by the Board.

40:50-1-7.2. Annual renewal [AMENDED]

(a) All service center licenses expire June 30th of each year unless inactivated, suspended or revoked by the Board.

(b) The process of license renewal of a service center shall be the same as the service center licensure process stated in this title. The Board shall designate a renewal period within which the license renewal process shall be allowed.
(c) No license shall be renewed if there is pending action against the service center manager or service center for any violation of these rules or outstanding invoices payable to the Board.
(d) Any request(s) to renew a service center license may be denied if:

(1) the service center has any compliance violations notated on the Board of Tests inspection report(s); or
(2) the service center fails to receive training, equipment, devices, wiring harnesses, or any other materials required for interlock services such as, but not limited to, installation, maintenance, calibration, and removal.

[OAR Docket #24-736; filed 7-2-24]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 10. LICENSURE OF CHIROPRACTIC PHYSICIANS

[OAR Docket #24-716]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
140:10-1-2. Definitions [AMENDED]
Subchapter 5. Procedures for Renewal Licenses
140:10-5-2. License renewal program approval [AMENDED]
140:10-5-3. Revocation or suspension of license; reinstatement [AMENDED]
AUTHORITY:
Oklahoma Board of Chiropractic Examiners; Title 59 O.S. 161.6
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 8, 2023
COMMENT PERIOD:
January 2, 2024 through February 2, 2024
PUBLIC HEARING:
N/A
ADOPTION:
February 8, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 13, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
These rules would allow for a revision to the definition of "Continuing Education" and would allow for continuing education to be offered in state by a state association and/or an accredited chiropractic college as defined in Title 59 Section 161.3. The amendments in 140:10-5-2 would provided language to come in line with current statutory amendments that are currently in place as of November 1, 2023 through the amendments form HB 1385. Proposed amendments in 140:10-5-3 are necessary to come in line with current statutory language in Title 59 O.S. 161.11(D)(1).
CONTACT PERSON:
Beth Kidd, Executive Director 405-522-3400

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

140:10-1-2. Definitions [AMENDED]

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise. In addition, the use of the masculine gender shall be deemed inclusive in this chapter to include the feminine gender.

"Accredited chiropractic college" means a chiropractic educational institution which is accredited by the Commission on Accreditation of the Council on Chiropractic Education, a national, independent accreditation body recognized and approved by the U.S. Department of Education.

"Act" means the Oklahoma Chiropractic Practice Act, 59 O.S. 1991, §§161.1 et seq.

"Advisory Committee" means the committee appointed by the Board to advise and assist the Board in the investigation of the qualifications for licensure, complaints as to the conduct of chiropractic physicians, and for such other matters as the Board delegates to them.

"Board" means the Board of Chiropractic Examiners.

"Chiropractic" means the science and art that teaches health in anatomic relation and disease or abnormality in anatomic disrelation, and includes hygienic, sanitary and therapeutic measures incident thereto.

"Chiropractic physician" or **"licensee"** means a person who holds an original license to practice chiropractic in this state.

"Continuing education requirements" means attendance by a licensee at a minimum of sixteen (16) hours of Chiropractic education seminars as required for a renewal license.

(A) Twelve (12) hours of the sixteen required by law must be clinical in nature, and the other remaining four (4) may consist of practice management, philosophy, and or other non-clinical topics.

(B) Eight (8) hours of continuing education may be acquired out of state with first having obtained a pre-approval from the Board of Chiropractic Examiners. Eight (8) hours of continuing education can be obtained by attending a national chiropractic association meeting and/or the Federation of Chiropractic Licensing Boards Annual or Federation of Chiropractic Licensing Boards' District meetings attended by any licensee.

(C) Eight (8) hours of mandatory in state continuing education shall be acquired by attending continuing education offered by an ~~registered, domestic Oklahoma~~ association and/or an accredited chiropractic college as defined in Title 59 O.S. 161.3 whose seminar has been approved by the Board of Chiropractic Examiners.

"Examination" means the process used by the Board, prior to the issuance of any original license, to test the qualifications and knowledge of an applicant on any or all of the following: current statutes, rules, or any of those subjects listed in Section 161.8 of the Act.

"Individual proceeding" means the formal process employed by the Board to provide a hearing for a licensee of the Board accused of a violation of the Act and in which the Board may take action against such person's original license to practice chiropractic in this state.

"License renewal program" means a continuing education program which:

(A) is sponsored or administered by a state or national chiropractic association or accredited chiropractic college for the purpose of providing licensees an opportunity to satisfy continuing education requirements; and

(B) has been approved by the Board.

"Licensure" means the Board's process with respect to the grant, denial, renewal, revocation, or suspension of an original or renewal license.

"Original license" means a license which grants initial authorization to practice chiropractic in this state issued by the Board to an applicant found by the Board to meet the requirements for licensure of the Act:

(A) by examination pursuant to § 161.7 and 161.8 of the Act and 140:10-3-1 through 140:10-3-4 or

(B) by relocation of practice pursuant to § 161.9 of the Act and 140:10-3-5.

"Relocation of practice" means the ability of an applicant to obtain an Oklahoma chiropractic license who satisfies all of the following conditions:

(A) The requirements for licensure in the state, country, territory or province in which the applicant is licensed are deemed by the Board to be equivalent to the requirements for obtaining an original Oklahoma chiropractic license by examination;

(B) The applicant has no disciplinary matters pending against him or her in any state, country, territory or province;

(C) The license held prior to relocation of practice was obtained by examination in the state, country, territory or province wherein it was issued, or was obtained by examination of the National Board of Chiropractic Examiners;

(D) The applicant passes any examination offered by the Board according to 140:10-3-1; and

(E) The applicant meets all other requirements of the Oklahoma Chiropractic Practice Act.

"Renewal license" means a license issued by the Board on or before the first day of July of each year to a licensee which authorizes the licensee to practice chiropractic in this state for the succeeding calendar year.

"Revocation" means the recalling, annulling or rendering inoperative of an original license or renewal license, or both, by the Board, after notice and an opportunity for a hearing in an individual proceeding.

SUBCHAPTER 5. PROCEDURES FOR RENEWAL LICENSES

140:10-5-2. License renewal program approval [AMENDED]

(a) Applications to provide continuing education seminars shall be submitted for review and approval by the Board of Chiropractic Examiners. ~~Approval of programs to be offered to satisfy license renewal provisions of the Subchapter is vested solely in the Board. No program shall be offered, advertised or marketed for the purpose of license renewal prior to being approved by the Board.~~

(b) Prior to approval of an application, the Board may authorize the Executive Director to temporarily approve applications, or amendments to an application, pursuant to the requirements specified by Title 59 Section 161.10(a). Continuing education credits may only be counted for seminars receiving final Board approval.~~It shall be the duty of the Board to review and consider for approval, during a meeting of the Board, every application from a chiropractic association, accredited chiropractic college or other entity which desires to present a continuing chiropractic education program required for license renewal.~~

~~(c) The Board shall maintain a list of all applicants that notify the Board of an intent to present a continuing chiropractic education program for license renewal. It shall be the duty of each applicant to inform the Board of any change of address or name.~~

(c)~~(d) All applications to present continuing chiropractic program must be submitted at least ninety (90) calendar days prior to said education programs being presented.~~ Each application must contain the qualifications of the applicant, association or entity seeking to sponsor the program, the state of domicile, the classification of the applicant as "profit" or "nonprofit", and the educational experience of the instructors conducting the program.

(d)~~(c)~~ The board shall create and approve an application form. An applicant association or accredited chiropractic college shall submit a separate application for each program it wishes to present.

(e)~~(f)~~ All continuing education applications will be assigned by the Executive Director to a member of the education review committee. The member will review the continuing education application to ensure that the course meets the requirements set forth in the Practice Act. Once reviewed and approved by the committee member, the Executive Director will issue a temporary approval of the continuing education program. ~~The board in its discretion, may refer the application to the Advisory Committee or the Executive Director for review and/or information gathering.~~
~~(g) During the meeting provided for in paragraph (b) of this Section, each applicant, shall be given the opportunity to make an oral presentation of no more than fifteen (15) minutes for each application to provide the Board with any additional relevant information for such program. The board may request additional information regarding the application.~~
(f)~~(h)~~ The board shall consider, among other relevant factors, the content of the program and the cost by for a chiropractic physician to attend the program. The Board shall not approve programs which do not present a program of a chiropractic nature; provided no program shall be approved which is used primarily as a sales promotion for the entity which presents the program or any speaker who presents any part of a program or at which products or services related to the programs are offered for sale.
~~(i) At the conclusion of all presentations and during the same meeting, the board shall announce individually the approval or denial of the application to present a continuing chiropractic program. The Board shall state the specific reason or reasons for the denial of any application.~~
(g)~~(j)~~ All programs approved by the Board shall be open to all persons.

140:10-5-3. Revocation or suspension of license; reinstatement [AMENDED]
(a) In the event that a licensee fails to obtain a renewal license on or before the first day of July of each year, the original license of such licensee shall lapse or be suspended as provided for at Section 161.11 of Title 59 of the Oklahoma Statutes. The Board may reinstate the original license of such person upon the payment of all fees due, plus a penalty fee in the amount provided for in the Board's fee schedule, and upon presentation to the Board of satisfactory evidence of compliance with the continuing education requirements and any other education or training which the Board, in its discretion, deems necessary. The licensee shall submit a reinstatement fee not to exceed Four Hundred Dollars ($400.00).
(b) If the Board receives notice from the Oklahoma Tax Commission that a licensee is not compliant with the Oklahoma income tax law pursuant to Section 238.1 of Title 68 of the Oklahoma Statutes, the license of that physician shall not be renewed but shall automatically be suspended pursuant to Section 161.11 of the Act. The suspension shall begin July 1 of the renewal year and shall not be lifted until:
(1) the Board receives notice from the Oklahoma Tax Commission that the license has come into compliance with Oklahoma income tax law; and
(2) the licensee has paid a reinstatement fee not to exceed Four Hundred Dollars $400.00.

[OAR Docket #24-716; filed 7-1-24]

TITLE 140. BOARD OF CHIROPRACTIC EXAMINERS
CHAPTER 15. SPECIAL CERTIFICATES AND MISCELLANEOUS PROVISIONS

[OAR Docket #24-717]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
140:15-1-2. Definitions [AMENDED]
Subchapter 7. Public Welfare
140:15-7-1. Display of license [AMENDED]
140:15-7-4. Appendages to names of licensees [AMENDED]
Subchapter 9. Chiropractic Specialties
140:15-9-1. Oversight Authority [AMENDED]
Subchapter 13. Dry Needling
140:15-13-3. Application for registration; educational requirements [AMENDED]
AUTHORITY:
Oklahoma Board of Chiropractic Examiners; Title 59 O.S. 161.6
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 8, 2023
COMMENT PERIOD:
January 2, 2024 through February 3, 2024
PUBLIC HEARING:
February 8, 2024
ADOPTION:
February 8, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 13, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The proposed rules would provide a definition for Recognized Chiropractic Specialty Program, and would allow the Board to utilize the RCSP Program to assist in vetting Specialty Programs but would still provide for the board to have the final approval for all programs based on the furtherance of professional development to be placed on the Board's Registry for Diplomate and Non-Diplomate specialties and do so in the best interest of public protection objectives of the Practice Act. Other amendments include adding "her" "they are" and "herself" in 140:15-7-1 and 140:15-7-4. A clerical error will be amended in 140:15-3-3 changing "twelve" to "twenty-four" to match the requirements for Dry Needling.
CONTACT PERSON:
Beth Kidd, Executive Director 405-522-3400

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

140:15-1-2. Definitions [AMENDED]

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

"Act" means the Oklahoma Chiropractic Practice Act, 59 O.S. 1991, §§161.1 et seq.

"Acupuncture and/or Meridian Therapy" means a healthcare method used to prevent, diagnose and treat disease by restoring the body's balance and harmony consisting of the stimulation of various points on or within human body or interruption of the cutaneous integrity by specific needle insertion or other form of point stimulation.

"Board" means the Board of Chiropractic Examiners.

"Certificate" means a document given to a chiropractic physician by an institution, specialty council, specialty board, or Board, verifying the chiropractic physician has fulfilled the educational requirements set forth by the institution, specialty council, specialty board, or Board granting the certificate.

"Certification" means a process by which an institution, specialty council, specialty board, institution, or Board evaluates and acknowledges a chiropractic physician's successful completion of a pre-established set of requirements or criteria.

"Chiropractic physician" or **"licensee"** means a person who holds an original license to practice chiropractic in this state.

"Diplomate Specialty" means a postgraduate diplomate degree or certificate granted to a chiropractic physician.

"Dry Needling" means a physical intervention that uses a filiform needle to stimulate myofascial trigger points, diagnose and treat neuromuscular pain and functional movement deficits; is based on Western medical concepts; requires an examination and diagnosis, and treats specific anatomic entities selected according to physical signs.

"Homeopathy" means a healthcare method used to prevent, diagnose and treat disease by homeopathic methods such as homeopathic medicines, agents, remedies and articles.

"Institution" means a school of higher education or its affiliate, regulated by a state department of education or state department of health occupation or state commission on higher education or a school accredited by an agency recognized by the United States Department of Education or the Council of Higher Education Accreditation.

"Naturopathy" means a healthcare method used to prevent, diagnose and treat disease by naturopathic methods of natural therapeutic modalities that include but are not limited to naturopathic medicines, agents, remedies and articles.

"Non-Diplomate Specialty" means a certificate that is not specifically identified as being a Diplomate that is granted to a chiropractic physician by an institution, specialty council, or specialty board.

"Recognized Chiropractic Specialty Program (RCSP)" means the Federation of Chiropractic Licensing Boards Recognized Chiropractic Specialty Program (RCSP).

"Registry" means a structured record of registration information regarding all chiropractic physicians holding themselves out as having a specialty certificate.

"Specialty Board" means a professional, independent entity that provides for competency testing of didactic and clinical skills of applicants and granting of certifications in post-doctoral chiropractic specialty areas upon completing an approved post-doctoral curriculum.

"Specialty Certificate" means a document granted to a chiropractic physician by a specialty council, specialty board, or institution signifying the chiropractic physician has obtained Diplomate specialty status or a non-diplomate specialty certification that is granted by an institution.

"Specialty Council" means an approved council by the International Chiropractic Association or the American Chiropractic Association, or its equivalent as approved by the Board.

SUBCHAPTER 7. PUBLIC WELFARE

140:15-7-1. Display of license [AMENDED]

Each chiropractic physician shall, at all times, display his or her original license and current renewal license in a prominent place at the primary location in this state where they are ~~he is~~ engaged in the practice of chiropractic. Failure to properly display the original license and or the current license renewal may result in the issuance of a field citation.

140:15-7-4. Appendages to names of licensees [AMENDED]

(a) Every chiropractic physician who writes or prints, or causes to be written or printed, his or her name (whether or not the word "doctor," or an abbreviation thereof, is used in conjunction therewith) in any manner in connection with such person engaging in, or in any manner holding himself or herself out to the public as engaging in, the practice of chiropractic, shall append to his or her name so written or printed, in the same size letter as his or her name, one of the following designations:

(1) Chiropractic Physician;
(2) Doctor of Chiropractic
(3) Chiropractor; or
(4) D.C.

(b) Failure to properly use the designations listed above may result in the issuance of a field citation.

SUBCHAPTER 9. CHIROPRACTIC SPECIALTIES

140:15-9-1. Oversight Authority [AMENDED]

The Board shall have practice oversight authority for all post-doctorate chiropractic specialties. No chiropractic physician shall represent to the public that he/she is a specialist in any area unless said chiropractic physician is registered with the Board. Pursuant to the legislative authority granted to the Board, the Board hereby recognizes the requirements adopted from time to time of the Federation of Chiropractic Licensing Boards' Recognized Chiropractic Specialty Program (FCLB RCSP) as requirements of the Board. The Board, however, reserves the approval authority for all programs based on furtherance of professional development and related areas, and in the interest of the public protection objectives of the Act. ~~The Board shall review all post-doctorate specialty applications and shall approve those applications that meet Board requirements.~~ The Board shall maintain a registry listing all chiropractic physicians who are approved by the Board.

SUBCHAPTER 13. DRY NEEDLING

140:15-13-3. Application for registration; educational requirements [AMENDED]

Any chiropractic physician who desires to represent to the public he/she is a specialist in dry needling shall make application, on a form prescribed by the Board, for registration for such purpose. Each such chiropractic physician shall submit to the Board documentary evidence of satisfactory completion of the following;

(1) To be deemed competent to perform dry needling a chiropractor holding an acupuncture certification must meet the following requirements: Documented successful completion of a dry needling course of study. The course of must meet the following requirements: A minimum of twelve (12) hours of face-to-face IMS/dry needling course study sponsored by an institution accredited by the council of chiropractic or its equivalent or another course of study deemed appropriate by the Board.

(2) To be deemed competent to perform dry needling a chiropractor without acupuncture certification must meet the following requirements: Documented successful completion of a dry needling course of study. The course must meet the following requirements: A minimum of ~~twelve~~ twenty-four (24) hours of face-to-face IMS/dry needling course study sponsored by an institution accredited by the council of chiropractic or its equivalent or another course approved of study deemed appropriate by the Board; Online study is not considered appropriate training.

(3) Upon successful demonstration of these requirements, the Board shall list the chiropractic physician's name on the registry.

[OAR Docket #24-717; filed 7-1-24]

TITLE 150. OKLAHOMA DEPARTMENT OF COMMERCE
CHAPTER 175. PREP INFRASTRUCTURE PROGRAM RULES [NEW]

[OAR Docket #24-762]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. PREP Infrastructure Projects Program [NEW]
150:175-1-1. Purpose [NEW]
150:175-1-2. Definitions [NEW]
150:175-1-3. Eligibility requirements [NEW]
150:175-1-4. The award [NEW]
150:175-1-5. Use of funds and reporting requirements [NEW]
150:175-1-6. The application; submittal of application documents [NEW]
AUTHORITY:
Oklahoma Department of Commerce; HB 1019, 74 O.S. §§ 5001 et seq.; 62 O.S. § 256
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 20, 2023
COMMENT PERIOD:
January 16, 2024 through February 15, 2024
PUBLIC HEARING:
N/A
ADOPTION:
February 21, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 22, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 12, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
This action establishes the application process for the PREP Fund program as found in HB 1019. It also provides criteria to qualify for these funds.
CONTACT PERSON:
Karla Jackson Agency Liaison 405.815.5177

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 12, 2024:

SUBCHAPTER 1. PREP INFRASTRUCTURE PROJECTS PROGRAM [NEW]

150:175-1-1. Purpose [NEW]
The PREP Infrastructure Projects Program ("PREP" or "the program") is designed to provide rules and program information for the Progressing Rural Economic Prosperity Fund created in Enrolled House Bill No. 4456 of the 2nd Session of the 58th Oklahoma Legislature, the sum of Twenty-nine Million Nine Hundred Fifty Thousand Dollars ($29,950,000.00) or so much thereof as may be necessary to fund facility upgrades, including electric, water, natural gas, sewer, fiber, site access and land remediation at industrial parks, airparks, and ports in counties not receiving funding from the Pandemic Relief Primary Source Revolving Fund or Pandemic Relief Secondary Source Revolving Fund, both created by Enrolled House Bill No. 1021 of the 2nd Extraordinary Session of the 58th Oklahoma Legislature, provided that the

Department distributes such funds evenly amongst the congressional districts of the state so as to provide statewide economic impact.

150:175-1-2. Definitions [NEW]

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

"Applicant(s)" means communities or organizations responsible for applying for PREP funds on sites designated by the State Legislature.

"Department" means the Oklahoma Department of Commerce.

"Project(s)" means economic development infrastructure that support sites or surrounding communities identified by State Legislature.

150:175-1-3. Eligibility requirements [NEW]

(a) Eligible projects: Projects are economic development infrastructure design, development, and construction that supports sites or surrounding communities in the creation of nationally marketable industrial sites. The PREP applicant must:

(1) Be located in Oklahoma;

(2) Agreeing to enter into a written agreement with the Department;

(3) Be in compliance with applicable Oklahoma and federal tax laws; and

(4) If applicant is awarded PREP funds, register as a state supplier via the Oklahoma Management and Enterprise Services (OMES). This step is not required until the applicant has been given a tentative award notification from the Department.

(b) Ineligible projects: A project as defined in these rules and the following requirements must be met or the projects are ineligible for PREP:

(1) The Department shall distribute such funds evenly amongst the congressional districts of the state so as to provide statewide economic impact;

(2) Applicants or Projects that do not meet the definition of "eligible project"; and

(3) Applicants or Projects the Department deems as not creating a feasibly marketable site in compliance with the intent of the legislative funding.

150:175-1-4. The award [NEW]

Amount of award:

(1) The Department shall distribute such funds evenly amongst the congressional districts of the state so as to provide statewide economic impact.

(2) The Department may distribute larger awards to larger Projects to complete infrastructure projects to complete certain sites as the Department deems appropriate.

(3) The Department is allowed to keep two (2) percent from each project awarded for administrative cost.

150:175-1-5. Use of funds and reporting requirements [NEW]

(a) Permissible uses of funds:

(1) Awards received through this program are intended to install industrial infrastructure into sites designated by the Legislature.

(2) Projects using PREP funds must create economic development infrastructure that support sites or surrounding communities.

(3) Funds impermissibly used shall be repaid by the applicant to the State within thirty (30) days of a written request for repayment transmitted to the applicant by the State.

(b) Reporting requirements:

(1) Applicants that receive funds from the program are required to keep specific records of all expenses for which the funds were used, for a period of seven (7) years. Upon request, the applicant or project shall provide access to these records to the State of Oklahoma, its agencies, agents, directors, and/or any party that has contracted with the State for the exclusive purposes of evaluating or ensuring compliance with PREP program requirements.

(2) At their own expense, the applicant shall prepare photocopies or upload documents to OKGrants or other portal used by the Department of all required documents and deliver said documents to the State or any of the aforementioned parties upon written request within a reasonable time of the request.

(3) In the event that the applicant ceases operations as an entity or of the project during this seven (7) year period, the applicant must provide photocopies or electronic photocopies of these records to the Executive Director of ODOC within thirty (30) days of ceasing operations.
(4) Failure to abide by any reporting requirement shall require the applicant to repay PREP funds to the State of Oklahoma within thirty (30) days of a written request for repayment.

150:175-1-6. The application; submittal of application documents [NEW]
(a) Transmittal of documents and receipt:
(1) Applicants shall review all requirements in the authorizing legislation related to PREP as well as the requirements listed in this document before applying for funds. Applicants must be able to submit documents via the required online portal and must be able to utilize the required login procedures as prescribed by the OKGrants online grant management system or any system utilized by the Department.
(2) Required Documents to be submitted by the applicant Nonprofit to the OKGrants online portal or any system utilized by the Department.
(b) Applicants shall submit an application packet consisting of the following documents and attestations in the OKGrants online portal or any system utilized by the Department:
(1) Scope of work including details of the project as well as the timeline for completion;
(2) Budget for the project including Construction, Professional, and Non-Construction costs;
(3) Maps of the project include overview of site, dimension and locations of improvements, and locations of utilities, water areas, and existing infrastructure. Mapping must include a site outline with indication of Contiguous Developable Area;
(4) An assessment of the economic performance created by the investment of infrastructure funding;
(5) Attestation that the applicant is in compliance with both federal and Oklahoma tax laws;
(c) An applicant shall only submit one application to the OKGrants online portal or any system utilized by the Department. Violation of this rule by submission of multiple applications to may cause the applicant to be denied participation in the program by the Department.
(d) Failure to complete the required online application and attach all of the required documents may cause the application not to be deemed received by the Department.

[OAR Docket #24-762; filed 7-8-24]

TITLE 155. OKLAHOMA CONSERVATION COMMISSION
CHAPTER 12. LAND MANAGEMENT [NEW]

[OAR Docket #24-653]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. GENERAL PROVISIONS [NEW]
155:12-1-1. Purpose [NEW]
155:12-1-2. Definitions [NEW]
Subchapter 3. LAND RESTORATION [NEW]
155:12-3-1. Land restoration [NEW]
155:12-3-2. Eligibility [NEW]
155:12-3-3. Mine restoration objectives and priorities [NEW]
155:12-3-4. Land management project evaluation criteria [NEW]
155:12-3-5. Rights of entry [NEW]
155:12-3-6. Revegetation standards [NEW]
155:12-3-7. Off-site soil [NEW]
Subchapter 5. UNPAVED ROADS PROGRAM [NEW]
155:12-5-1. Purpose of unpaved roads program [NEW]
155:12-5-2. Program goals [NEW]
155:12-5-3. Application ranking criteria [NEW]
155:12-5-4. Project eligibility [NEW]

AUTHORITY:
Oklahoma Conservation Commission; 27A O.S. 2011 §§ 3-1-101 ET SEQ., 27A O.S. §3-8-103

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 10, 2023

COMMENT PERIOD:
October 10, 2023 through December 19, 2023

PUBLIC HEARING:
December 19, 2023

ADOPTION:
February 5, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 7, 2024

LEGISLATIVE APPROVAL:
N/A

LEGISLATIVE DISAPPROVAL:
N/A

APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024

EFFECTIVE:
September 2, 2024

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:
N/A

GUBERNATORIAL APPROVAL:
N/A

REGISTER PUBLICATION:
N/A

DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
These newly proposed rules support emerging programs within the Land Management division of the Oklahoma Conservation Commission. Designed to meet the evolving needs of producers, counties, and landowners, these initiatives aim to deliver positive outcomes for all Oklahomans. Key aspects of the rules include: restoration of damaged lands by addressing the rehabilitation of areas such as deserted hard rock mines; funding for unpaved roads by outlining the purpose, goals, criteria, eligibility, and application process for counties seeking funding; natural logjam assessments that establish protocols for assessing logjams in Oklahoma waterways and considering potential removal; nutrient management and conservation planning to address requirements for producers; and implementation of the Terry Peach North Canadian Watershed restoration act by providing guidelines for effective execution. These rules aim to enhance Land Management practices and support sustainable development throughout Oklahoma.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 2, 2024.

SUBCHAPTER 1. GENERAL PROVISIONS [NEW]

155:12-1-1. Purpose [NEW]

This Chapter sets forth provisions and requirements related to the different programs and projects of the Land Management Division pursuant to authority in Title 27A, Sections 3-1-101 et. seq. of the Oklahoma Statutes.

155:12-1-2. Definitions [NEW]

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

"AEMS" means Agricultural Environmental Management Services division within the Oklahoma Department of Agriculture, Food, and Forestry dedicated to working with producers and concerned citizens in protecting the state's soils, air, and waters from animal waste.

"Alternate restoration" means the return of lands disturbed by human-related activities to a post-land use other than that which existed before the activity. Alternate restoration must be stable and have utility.

"BMPs" means Best Management Practices. These practices are capable of protecting the environment while considering economic factors, availability, technical feasibility, ability to implement, and effectiveness.

"Commission" means the Oklahoma Conservation Commission as created by the Conservation District Act of 1971.

"District" means a conservation district which is a governmental subdivision of this State and a public body corporate and politic organized in accordance with the provisions of the Conservation District Act of 1971.

"Director" means the Director of the Land Management Division of the Oklahoma Conservation Commission.

"DSA" means driving surface aggregate which is a well-graded, unbound mixture of loosely compacted fragments or particles designed for use as a wearing course on unpaved roads and to achieve maximum density to resist erosion and traffic wear.

"Eligible Land and Water" means those lands and waters that are eligible, under the criteria outlined in Section 155:12-3-2, for land restoration.

"Emergency" means a sudden danger or impairment that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal program operation procedures.

"ESM" means environmentally sensitive maintenance practices that reduce the impact of road runoff and sediment into local streams, while reducing long-term road maintenance costs.

"ESP" means environmentally safe practices which are practices that are put in place to ensure that the surrounding environment is free from hazards that will impact the safety and well-being of the public, as well as prevent accidental environmental damage or erosion.

"Extreme Danger" means a condition that could reasonably be expected to cause substantial physical harm to persons, property, or the environment and to which persons or improvements on real property are currently exposed.

"FEMA" means Federal Emergency Management Agency an agency within the Department of Homeland Security charged with responding to Presidentially declared disasters.

"French mattress" means a structure under a road consisting of clean coarse rock wrapped in geotextile through which water can freely pass. French Mattresses are used in saturated soils, such as in wetlands, to support the roadbed while allowing unrestricted water movement.

"Hard rock mining" means uncovering and extracting non-fuel metal and mineral deposits of solid ores or eroded deposits in igneous or metamorphic terrains or streambeds. Some common hard rock minerals mined are copper, gold, iron ore, lead, molybdenum, phosphate rock, platinum, potash, silver, uranium, zinc, sand, and gravel.

"Land Management" means an activity to preserve or repair the function of previously disturbed land or water channels.

"Logjam" means an accumulation of lodged trees, root wads, or other debris that impedes the ordinary flow of water through a waterway and that is: (1) Causing or threatening to cause flooding on a road or private property. (2) Impeding navigation by a boat. (3) Reducing the capacity of a waterway to transport water. The term does not include the development of sandbars, sedimentation, or accumulations of stone or gravel.

"Mineral" means any metalliferous material extracted from the earth, including gold, silver, copper, molybdenum, zinc, lead, and other materials that are used as feedstocks in producing metalliferous materials.

"NMP" means Nutrient Management Plan which is a plan that is developed to manage the amount or rate, source, placement, method of application, and timing of plant nutrients and soil amendments. The purpose is to budget, supply, and conserve nutrients for plant production.

"ODAFF" means the Oklahoma Department of Agriculture, Food, and Forestry which is an agency of the state of Oklahoma charged with protecting and promoting agriculture, agricultural goods, and natural resources.

"Permanent facilities" means any structure that is built, installed, or established to serve a particular purpose or any manipulation or modification of the site that is designed to remain after the land restoration is completed, such as a relocated stream channel or diversion ditch.

"Program" or **"Land Management Program"** means the program established by the State for the restoration, repair, reclamation, improvement, modification, or alteration of land and/or water adversely affected by human activity or natural processes (i.e., mining, logjams, erosion)

"Restoration" means measures that are taken on surface disturbances to achieve stability and safety consistent with post-land use objectives.

"Soil" means topsoil, suitable substrate, or other plant growth media that will sustain vegetation.

"Stability" means the condition of land concerning its erosion potential and ability to withstand seismic activity.

"Surface disturbance" means clearing, covering, or moving land using mechanized earth-moving equipment for exploration, development, and production purposes but does not include surveying, assessment and location work, seismic work, maintenance, and other activities that create a de minimis disturbance.

"Unpaved road" means surfaces of natural material or crushed aggregate that have not been incorporated into a bound layer using asphalt, oil, or other such binder.

SUBCHAPTER 3. LAND RESTORATION [NEW]

155:12-3-1. Land restoration [NEW]

Land restoration is the ecological process of restoring a natural and safe landscape for humans, wildlife, and plant communities. This process protects our ecosystems, creates economic development, helps prevent natural disasters such as floods, and increases soil health, productivity, and food supplies.

155:12-3-2. Eligibility [NEW]

(a) Lands are eligible for restoration that have a continuing condition that substantially degrades the quality of the environment, prevents or damages the beneficial use of the land, natural resources, or water resources, or endangers the health or safety of the public.

(b) In addition to paragraph (a), mined lands including hard rock mining, and associated waters are eligible for land restoration if:

(1) Mined or affected by mining processes; and

(2) Abandoned either unreclaimed or inadequately reclaimed; and

(3) No continuing responsibility for reclamation exists by the operator, permittee, or agent of the permittee under the statutes of the State.

155:12-3-3. Mine restoration objectives and priorities [NEW]

Land Management projects related to mining shall meet one or more of the objectives stated in this Section. Preference among those projects competing for available resources shall be given to projects meeting higher priority objectives. The following objectives are stated in the order of priority with the highest priority first:

(1) **Priority 1.** The protection of public health, safety, and property from the extreme danger of adverse effects of mining practices, including the restoration of land and water resources and the environment that:

(A) Have been degraded by the adverse effects of mining practices; and

(B) Are adjacent to a site that has been or will be addressed to protect the public health, safety, and property from the extreme danger of adverse effects of mining practices.

(2) **Priority 2.** The protection of public health and safety from adverse effects of mining practices, including the restoration of land and water resources and the environment that:

(A) Have been degraded by the adverse effects of mining practices; and

(B) Are adjacent to a site that has been or will be addressed to protect the public health and safety from adverse effects of mining practices.

(3) **Priority 3.** The restoration of land and water resources and the environment previously degraded by adverse effects of mining practices, including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity. Priority 3 land and water resources that are geographically contiguous with exiting or remediated Priority 1 or 2 problems will be considered adjacent under paragraphs (a)(1)(A) or (a)(2)(B) of this Section.

155:12-3-4. Land management project evaluation criteria [NEW]

Proposed land restoration projects and completed restoration work shall be evaluated in terms of the factors stated in this Section. This evaluation will be undertaken by the Director. The factors shall determine whether or not proposed land restoration will be undertaken and to assign priorities to proposals intended to meet the objectives in terms of factors set forth below as a means of identifying conditions that should be avoided, corrected, or improved in plans for future land restoration. The factors for consideration include:

(1) The need for restoration work to accomplish one or more specific land management objectives.

(2) The availability of technology to accomplish the land restoration with reasonable assurance of success. In the case of research and demonstration projects, the research capability and plans shall provide reasonable assurance of beneficial results without residual adverse impacts.

(3) The specific benefits to be considered when evaluating restoration projects shall include but are not limited to eligibility in 155:12-3-2, and the mine restoration objectives and priorities in 155:12-3-3.

(4) The acceptability of any additional adverse impacts to people or the environment that will occur during or after restoration and of uncorrected conditions, if any, that will continue to exist after the land restoration is completed.

(5) Consideration shall be given to both the economy and efficiency of the improvements and to the results obtained or expected as a result of the restoration.

(6) Landowner(s) acceptability to the restoration of the land.

(7) The availability of additional mineral or material resources within the project area that:

(A) Indicates a reasonable probability that the desired land improvements will be accomplished during the process of future mining.

(B) Requires special consideration to ensure that the resource is not lost as a result of the restoration and that the benefits of the restoration are not negated by subsequent, essential resource recovery operations.

(8) The acceptability of post-restored or improved land uses in terms of compatibility with land uses in the surrounding area, consistency with applicable State, regional, and local land use plans and laws, and the needs and desires of the community in which the project is located.

(9) The probability of post-land management, maintenance, and control of the area consistent with the improvements once completed.

155:12-3-5. Rights of entry [NEW]

(a) This Section establishes procedures for entry by the Commission for land restoration purposes.

(b) Written consent from the owner of record and lessee, or their authorized agents, is the preferred means for obtaining agreements to enter lands in order to carry out land restoration activities.
(c) The Commission, its agents, employees, or contractors may enter upon land to perform land restoration, make improvements, or conduct studies or exploratory work to determine the existence of the adverse effects of past mining or land damage, if consent from the owner is obtained.

155:12-3-6. Revegetation standards [NEW]

The Commission will restore lands that can include a variety of possible uses like production agriculture, wildlife habitat, grasslands, and native wooded areas.

(1) Where surface disturbances result in compaction of the soil, ripping, disking, or other means shall be used in areas to be revegetated to reduce compaction and to establish a suitable root zone in preparation for planting.
(2) Revegetation shall be conducted to establish plant species that will support the approved land use. The establishment of vegetation species, density, or diversity that is different than pre-existing conditions or on adjacent lands shall constitute successful reclamation if any of the following apply:
(A) The post-land use is different from the pre-land use or the use of adjacent lands;
(B) The site-specific nature of the surface disturbance, including soil conditions and topography, is such that the establishment of pre-existing or adjacent conditions is not technically or economically practicable; or
(C) The establishment of different species is preferable for the control of erosion.
(3) Planting shall be conducted during the most favorable period of the year for plant establishment.
(4) Soil stabilizing practices or irrigation measures, or both, may be used to establish vegetation.
(5) This Section only applies if vegetation or revegetation measures are included in the approved restoration plan.

155:12-3-7. Off-site soil [NEW]

Soil may be brought in from off-site locations, and may include any growth media that will support vegetation, will provide a stable growing surface, and will not create a hazard to public safety.

SUBCHAPTER 5. UNPAVED ROADS PROGRAM [NEW]

155:12-5-1. Purpose of unpaved roads program [NEW]

(a) The purpose of the Unpaved Roads Program is to create a better unpaved road system with a reduced negative environmental impact on priority water resources in Oklahoma. The Program focuses on best management practices (BMPs) that reduce the impact of sediment and road runoff into streams, rivers, and drinking water supplies while reducing long-term unpaved road maintenance costs.
(b) The Program is designed to fund work on public roads with unbound road surfaces also known as unpaved roads. For the Program, driving surface aggregate (DSA) is NOT considered “paved” even though the material looks similar to pavement/concrete and is laid with paving equipment, however, it has no binding agent.
(c) Public entities that own and maintain public roads in Oklahoma that are open to public vehicle travel at least eight (8) consecutive weeks a year are eligible to apply for grants for Program funding.
(d) Counties are the primary applicants for Program funding. Other unincorporated areas with public, unpaved roads can also apply for funding as long as the entity has the capacity to implement and manage a Program grant.

155:12-5-2. Program goals [NEW]

The Commission’s program goals are to:

(1) Fund safe, efficient, and environmentally sound projects for the maintenance of unpaved roads that have been identified as possible contributors of sediment in Oklahoma streams.
(2) Provide training on techniques of unpaved road maintenance that minimize negative impacts to water and on air quality.

155:12-5-3. Application ranking criteria [NEW]

Applications will be reviewed and ranked with preference given to projects in priority watersheds. The application criteria in order of priority given are:

(1) A water body listed as impaired on Oklahoma’s 303(d) list;
(2) A water body containing an aquatic species listed as threatened, endangered or a candidate species by the Federal Government;

(3) A water body used as a drinking source for people;
(4) A water body used as an interstate waterway;
(5) A water body important to agricultural or pasture land use; and
(6) A water body important to forestry land use.

155:12-5-4. Project eligibility [NEW]

(a) To be eligible for funding under this program, the applicant's project must focus on:
(1) Both unpaved road improvements and sediment reduction that is negatively impacting, or could negatively impact a named, priority water body covered by the program; and/or
(2) Worksites (identified pollution sites) and environmentally safe practices (ESP) to reduce pollution while providing a more stable unpaved road.
(b) The applicant must have at least one person certified in ESM practices on staff.
(c) Only projects that provide some form of environmental benefit, typically by reducing sediment and concentrated drainage to waterways, will be considered for funding.

155:12-5-5. Ineligible projects [NEW]

(a) Projects not eligible for funding consideration under the Unpaved Roads Program include, but are not limited to:
(1) Roadways that have bound surfaces including oil, asphalt, concrete, or any mixture of sealed aggregate.
(2) Roadways that are not negatively impacting a priority body of water.
(3) Public roads that are open to the public for less than eight (8) consecutive weeks.
(4) Any and all private roads.
(b) Applicants are not eligible for an Unpaved Roads Grant if the applicant or county has an Unpaved Roads Grant currently open. Once the grant closes, applicants are eligible to re-apply.

155:12-5-6. Environmentally sensitive maintenance [NEW]

(a) An Environmentally Sensitive Maintenance (ESM) certified person must be in charge of work plan development and project implementation for the applying entity. ESM training for the program is a one-day course that covers the road maintenance practices employed by the program.
(b) ESM training is made available at no cost to potential grant applicants such as county Commissioners, county roads personnel, and other interested parties. It is highly recommended that all persons representing the county who have a significant role in the program attend ESM training, including county administrative staff. ESM training must be taken once every three (3) years to maintain certification and an approved Local Technical Assistance Program (LTAP) course on years when no ESM course is taken.
(c) Some examples of ESM principles are as follows:
(1) **Road/Stream Interactions.** ESM practices for stream crossings focus on reducing the sediment delivery to a river or lake, riverbank stability issues, and the river crossing itself. Practices such as high water bypasses, French mattresses, proper stream crossing sizing, better bridge and pipe design, and in-stream flow control structures can be effectively used to stabilize the unpaved road or stream interface.
(2) **Unpaved Road Surface.** ESM practices for the unpaved road surface include drainage control and improved aggregate. Drainage control starts with proper crown and cross-slope but also includes practices such as grade breaks, berm removal, and broad-based dips. Improved surface aggregate focuses on the driving surface aggregate and includes maintenance concerns such as grading and pothole repair.
(3) **Unpaved Road Base.** Practices that improve the base of a road include mechanical base improvements, underdrains, French mattresses, road elevation increase, and in some cases full-depth reclamation.
(4) **Vegetation Management.** Practices that manage vegetation in a sustainable manner will reduce erosion from the unpaved road area and save on future maintenance costs associated with tree trimming and cleanup. Practices include selective thinning, proper pruning, seeding and mulching, and managing vegetation for long-term stability.
(5) **Unpaved Road Bank Management.** Practices that stabilize the upslope or downslope road bank include slope reinforcement, filling the road profile, naturalizing bank shape, and natural or mechanical slope reinforcement.
(6) **Unpaved Road Ditch and Outlet Stabilization.** ESM practices for ditches include anything that reduces the flow in the ditch. The simplest of these practices is to provide more drainage outlets in the form of new turnouts and cross pipes. Selecting locations to outlet water and choosing the proper outlet stabilization methods is also important. Other practices such as rock check dams, berm removal, and filling the road profile in an attempt to

eliminate ditches completely and promote sheet flow. Practices to reduce the effect of subsurface flow such as underdrains are also important.

(7) **Bridges.** Applying ESM practices to the construction and maintenance of bridges located on unpaved roads.

155:12-5-7. Eligible project expenses [NEW]

(a) Applicants may apply for the full or partial costs of materials, equipment, and labor required for the implementation of the grant project. Salaries and other associated personnel expenses are not eligible. Eligible grant fund caps, labor expense information, and other specific program requirements will be provided in the program year guidelines issued by the Commission.

(b) Material expenses on a project include but are not limited to items such as pipe, stone, fill, fabric, aggregate, etc. Products with the potential ability to leach off the road (such as dust suppressants) must meet Oklahoma state standard requirements for non-pollution.

(c) Program projects are often completed with applicant-owned equipment. In most cases, this will be county-owned equipment. Reimbursement of applicant-owned equipment costs may be an eligible expense under the Program as:

(1) Accepted Federal Emergency Management Agency (FEMA) rates if submitted with the grant application;

(2) Legitimate quote or invoice acceptable by the Commission; or

(3) Approved labor expenses as set out in the program year guidelines.

(d) Projects may require equipment that the applicant does not own. It may be an eligible expense for an applicant to rent or lease equipment necessary to complete a project with program funds. Equipment rented or leased with program funds can only be used on the project for which it was rented or donated. Grant funds from the program cannot be used to purchase or maintain equipment.

(e) Some projects may be completed entirely by a subcontractor where no unpaved road work is performed by the applicant. Applicants should follow standard procedures regarding project bidding and working with sub-contractors. The Commission will make payments to the grant recipient, not directly to the grant recipient's sub-contractors.

(f) Most projects will require permits, engineering, or consultant work to design and complete.

(g) Each program year the Commission shall establish and issue program guidelines that specify what practices and expenses shall be approved and covered by the program's funds.

155:12-5-8. Funding availability [NEW]

Applicants with an eligible project may apply for the program year cap amount in state-matching funds toward a single project. As the grant pool monies are limited, the Commission may award less than the amount requested.

155:12-5-9. Matching requirement [NEW]

(a) All proposed and funded projects are required to have at least a 1:1 match contribution.

(b) In-kind goods and services committed by the county will include without limitation labor, equipment use, materials, and services.

(c) Donations from private entities and other program stakeholders can be applied to meet or exceed the programmatic matching requirements. Other sources of funds that will benefit a county's grant applications are encouraged.

(d) All matching funds must be pledged at the time of application submission and be immediately available if an award is received.

(e) Donated labor cannot count as match if it is executed before the grant is awarded.

(f) Debt financing of any nature and proceeds from any other state grant programs cannot be used for matching purposes.

(g) Proof must be shown that the entire project can be funded.

155:12-5-10. Pre-application [NEW]

(a) Applicants are encouraged to conduct pre-application site visit meetings with Commission staff to discuss the potential project and look at the potential project on-site before an application is submitted for funding in excess of $25,000. A pre-application meeting aims to work jointly with the applicant to ensure the plan submitted is in the best interest of both entities. The pre-application meeting allows the Commission to provide input on the potential project at an early stage before the applicant has invested a large amount of time and resources in developing a worksite plan. Topics to discuss at the pre-application meeting would include but not be limited to:

(1) Environmental concerns,

(2) Permitting requirements,

(3) Funding availability,

(4) Potential landowner issues, and

(5) Scope and design of project.

(b) The Commission, at its discretion, may refuse to accept incomplete applications or applications that do not properly address environmental issues or other program or project requirements.

155:12-5-11. Application [NEW]

(a) A complete grant application should include the following:

(1) **Cost estimate.** The cost estimate breakdowns and budget tables should include both the requested grant funds and matching funds. The minimum matching requirement ratio is 1:1. Every grant dollar must be matched with at least one dollar of non-grant funds.

(2) **Work plan.** A work plan that consists of a hand-drawn or digitally produced sketch of the proposed project. A work plan of the road should include all planned features such as pipes, aggregate, underdrain, surface features, etc. Applicants may use the space provided on the back of the grant application for the work plan.

(3) **Map.** A map that identifies where the project is located with a clear delineation of the water body that will be impacted by the project needs to be included. The water body must be named.

(4) **Documentation.** The general program agreements, resolutions, and forms must be completed and included.

(5) **EMS practices.** A planned list of ESM practices to be utilized on the project.

(b) Applications that the commission deems complete and potentially acceptable to the Program will be reviewed, ranked, prioritized, and funded accordingly.

(c) All applications for funding must be approved by the Commission.

(d) All applicants shall be notified in writing of the funding decisions of the Commission.

(e) A county cannot begin on any part of the project until they have received their grant approval letter.

155:12-5-12. Project field data [NEW]

(a) All approved and funded projects shall require site visits by the Commission or assigns.

(b) Roadside erosion predictor data sheets will be completed:

(1) before the project begins, and;

(2) five (5) days after the project completion date.

(c) Roadside erosion predictor analysis will be used to produce sediment reduction yields. Repeatable photo points will be installed during site visits. Approximately one year later Program staff will return to the project site to perform a project walk-through to ensure the project is still operational and reducing sediment. Photo points will be repeated. Program staff will complete a simple project completion report worksheet that will summarize the project implementation to ensure the grant was completed to achieve the grant objectives.

(d) A final inspection must be scheduled on-site involving the Commission and the grant recipient. Final inspections should be completed within five (5) days after work is complete, so any remediation can be done while equipment is still on site. Other entities such as Program stakeholders, and sub-contractors to the grant recipient should be encouraged to participate. The purpose of the final inspection is to verify:

(1) Completion of the project according to program standards and the satisfaction of the Commission;

(2) Completion of all "in-kind services" in accordance with program standards and the satisfaction of the Commission; and

(3) Proper installation of the proposed work elements contained in the work plans.

(e) Once the final inspection is completed the Commission shall summarize the project work elements and include cost documentation provided by the applicant to the Project Completion Report.

SUBCHAPTER 7. LOGJAMS [NEW]

155:12-7-1. Benefits and harms [NEW]

Logjams occur naturally and can provide beneficial stream structure and cover for fish and wildlife as well as contributing to nutrient-rich sediment being deposited on adjacent floodplains. In many cases, the ripples caused by obstructions oxygenate the water to improve water quality. However, streams are also expected to function as efficient drainage outlets, conveying water off the land in a timely manner. Logjams may inhibit this drainage function resulting in increased flooding, destruction of property, negative impacts on some wildlife habitats, and increased erosion and sedimentation.

155:12-7-2. Evidence of logjams [NEW]

Logjams are evidenced by a blockage that does any of the following:

(1) Traverses the waterway,

(2) Causes upstream ponding,
(3) Results in significant bank erosion, or
(4) Endanger infrastructure.

155:12-7-3. Condition classifications [NEW]

The Commission recognizes five (5) condition classifications for logjams. They are as follows:

(1) **Condition 1.** A single log located either in or across the waterway channel.
(2) **Condition 2**. Two or more logs in or across the channel. The accumulated logs are interlocked, but there is no sediment build-up or debris collecting at the site in the channel.
(3) **Condition 3.** Two or more logs in or across the channel. The accumulated logs are interlocked and sediment and debris have begun to collect on the jam. There is still water movement through the logjam.
(4) **Condition 4.**Two or more logs in or across the channel. The accumulated logs are interlocked and sediment and debris have compacted into the logjam. There is no water movement through the logjam. The logjam acts as a dam, holding back water within the channel; water movement is now through the overbank areas rather than the channel.
(5) **Condition 5.**Logjam is located on a waterway within an area providing significant environmental benefit or within a critical area for fish spawning.

155:12-7-4. Evaluation for removal [NEW]

Logjams or other in-stream obstructions should be looked at closely and evaluated to determine if the obstruction should be removed by the Land Management Division. Factors to consider include but are not limited to:

(1) Available Funding,
(2) Conditions of the logjam,
(3) Severity,
(4) Local impacts, and
(5) Analysis of the benefits.

SUBCHAPTER 9. CONSERVATION PLANNING PROGRAMS [NEW]

155:12-9-1. Purpose [NEW]

The purpose of these programs is to assist Oklahoma producers and growers with developing Conservation and Nutrient Management Plans that promote environmental stewardship and meet state regulatory requirements.

155:12-9-2. NMP program perimeters [NEW]

(a) The Commission shall assist in the hiring and placement of nutrient management planners in conservation districts where plans are needed.
(b) The Commission shall review and determine which applications for plans will be accepted and denied. The Commission shall consider, but not be limited to, looking at:

(1) available manpower,
(2) reasonableness of projected timeframes,
(3) scope of the NMP,
(4) complexity,
(5) type of operation, and
(6) ability of the Commission's planners to produce a quality NMP.

(c) NMPs shall be written to expire every six (6) years.

155:12-9-3. Process [NEW]

(a) The NMP request form shall be available online for completion and submission by applicants.
(b) The completed application will be reviewed by the Director for acceptance or denial.
(c) If accepted the applicant and ODAFF shall receive an electronic Notice of Intent (NOI) from the Commission and an NMP planner will be assigned to develop and write the NMP.
(d) If the application is denied, the applicant shall receive an electronic Notice of Denial (NOD) from the Commission.
(e) The planners shall submit their completed NMP draft to the Director for review and comment.
(f) The Director shall return the NMP to the planner for corrections and changes if any are required.
(g) If the Director approves the plan then the plan is sent to AEMS for its approval.

(h) Once approved by the Director and AEMS, a meeting is set with the grower to review the plan, acquire signatures, and submission of a copy of the signature page to AEMS to meet ODAFF requirements.
(i) Once the NMP is approved as complete by the Director, the Director shall verify with the District that all requirements are met and the NMP released to the applicant.

155:12-9-4. District partnership [NEW]

The Commission shall partner with conservation districts to get planners hired, housed, and writing plans. The conservation districts shall be primarily responsible for:

(1) Keeping and tracking all the NMP funds in a separate bank account from other district funds.
(2) Keeping the Commission apprised of the funds.
(3) Following program guidelines.
(4) Housing planners.

155:12-9-5. Conservation planners [NEW]

(a) For many state and federal cost-share programs, a conservation plan is required. However, the state has not had enough conservation planners to meet the needs of producers.
(b) The Commission shall assist districts in the hiring and placement of conservation planners across the state. These planners will work with producers to develop and write these plans.
(c) The Commission shall serve as the primary coordinator and overseer for the training and certifications required for these conservation planners.

SUBCHAPTER 11. INVASIVE WOODY SPECIES PROGRAMS [NEW]

155:12-11-1. Purpose [NEW]

The Commission shall assist in the managing and reduction of red cedars and other invasive woody species in an effort to protect our water supply, grazing lands, and wildlife habitat, to reduce wildfire risk, and show proof of concept for cedar removal impacts. In addition, the Commission will work to increase public awareness of the impact of these invasive species, increase support for the use of prescribed fire as a management tool, and provide a return on investment that will result in continued funding for the expansion of managing practices across the state.

155:12-11-2. Terry Peach North Canadian Watershed Restoration Act [NEW]

(a) The Commission shall administer the Terry Peach North Canadian Watershed Restoration Act. Under this Act, the Commission shall:

(1) Cooperate with landowners, state agencies, and other political subdivisions for the removal of invasive woody species;
(2) Share costs with landowners for expenses incurred;
(3) Measure the density of invasive woody species and determine its water usage;
(4) Establish at least two active project areas; and
(5) Develop grant programs with districts, rural fire departments, and prescribed burn associations.

(b) The Commission will focus on the following invasive woody species under this project:

(1) Eastern Redcedar;
(2) Rocky Mountain Juniper;
(3) Oneseed Juniper; and
(4) Salt Cedar.

(c) The Commission shall use the following three (3) prong approach to manage these invasive woody species:

(1) Data collection and research;
(2) Increase use of prescribed burns; and
(3) Wildfire damage prevention.

(d) Under this program the Commission shall partner with conservation districts. The conservation districts shall:

(1) Serve as the local contact with landowners;
(2) Conduct outreach;
(3) Engage additional partners;
(4) Provide staff support, office space, and homing of equipment;
(5) Work with the Commission to process payments; and
(6) Check the maintenance of practices.

155:12-11-3. Program expansion [NEW]

The Commission will work to implement new and expanding programs to combat the spread of invasive woody species. This could include the expansion of the Terry Peach North Canadian Watershed Restoration Act practices to other watersheds, the creation of a cost-share program, or any other beneficial program. The Commission will develop program year guidelines, standards, and specifications that are ecologically and geographically specific.

155:12-11-4. Cooperation [NEW]

The Commission and the conservation districts are encouraged to work cooperatively with federal and state agencies, tribes, OSU extension, burn associations, and other entities to reduce the footprint of woody invasion plants and the impacts the plants have on state waters and natural resources.

[OAR Docket #24-653; filed 6-25-24]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 1. GENERAL PROVISIONS

[OAR Docket #24-740]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Records and Inspections
240:1-3-3. Confidential records [AMENDED]
240:1-3-6. Search fees [AMENDED]
240:1-3-7. Receipt of requests [AMENDED]
AUTHORITY:
Oklahoma Employment Security Commission; 40 O.S. §§ 4-302, 4-304, 4-310.1; and 75 O.S. § 250.2(B).
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 1, 2023
COMMENT PERIOD:
December 5, 2023 through January 12, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
March 1, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 1, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 12, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Updates methods to request records, search fees, and methods of service.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 12, 2024:

SUBCHAPTER 3. RECORDS AND INSPECTIONS

240:1-3-3. Confidential records [AMENDED]
(a) Employer and unemployment insurance claimant records made confidential under Title 40 O.S., Section 4-508, may be released upon receipt of an administrative subpoena, court order or a notarized waiver of confidentiality signed by the person with the authority to waive the confidentiality of the records. No records shall be released unless the administrative subpoena, court order, or notarized waiver of confidentiality is dated within ninety days of the request for retrieval or reproduction of the requested records.
(b) The administrative subpoena, court order or wavier of confidentiality form shall be served on the Commission's legal division or the custodian of records via mail, email, or fax twenty (20) days prior to the date on which the records are to be produced. The records requested shall be described as specifically as possible and the administrative subpoena, court order or waiver of confidentiality form shall set out the employer account number or social security number of the employer or claimant whose records are being requested.
(c) An employer or unemployment insurance claimant with proper identification can request a copy of his or her records at the Commission's local office or at the administrative office located in the Will Rogers Memorial Office Building in Oklahoma City.

240:1-3-6. Search fees [AMENDED]
The search fee shall be applicable to all confidential records requested for commercial purposes or which would cause excessive disruption of office function, unless it is determined by the Director, in his or her discretion, that the public interest is served to such an extent that no charge should be applicable. The search fee will be ~~$10.00~~ $25.00 per hour, with a minimum of one hour charge for each account or claimant record requested. No search fee will be charged for the production of non-confidential records .

240:1-3-7. Receipt of requests [AMENDED]
All requests for inspection or release of information, administrative subpoenas, court order or waivers of confidentiality shall be served upon the Legal Department of the Oklahoma Employment Security Commission, their designee, or the Custodian of Records for the records requested. The Executive Director of the Oklahoma Employment Security Commission shall designate the Custodian of Records.

[OAR Docket #24-740; filed 7-3-24]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 10. UNEMPLOYMENT INSURANCE PROGRAM

[OAR Docket #24-742]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
240:10-1-2. Definitions [AMENDED]
240:10-1-3. Time computation [AMENDED]
Subchapter 3. Benefits
Part 5. ELIGIBILITY
240:10-3-20. Instructions to secure work [AMENDED]
Subchapter 5. Contributions
Part 3. RATES
240:10-5-11. Subject employer acquiring the experience rating account of another employer [AMENDED]
240:10-5-12. Nonsubject entity acquiring the experience rating account of an employer [AMENDED]
240:10-5-15. Successor acquiring the experience rating account of predecessor [AMENDED]
Part 7. COLLECTION OF CONTRIBUTIONS
240:10-5-32. Application of payments to delinquent tax indebtedness [AMENDED]
Part 19. MAINTENANCE AND PRODUCTION OF WORK RECORDS
240:10-5-91. Employer's Quarterly Contribution Wage Reports [AMENDED]
240:10-5-96. Application for Oklahoma UI Tax Account Number [AMENDED]
Subchapter 11. Assessment Board Procedure
Part 5. HEARINGS
240:10-11-23. Telephone hearings [AMENDED]
Subchapter 13. Appeal Tribunal Procedure
Part 1. GENERAL PROVISIONS
240:10-13-4. Organization [AMENDED]
Part 5. HEARINGS
240:10-13-32. Telephone hearings [AMENDED]
240:10-13-33. Notice of hearing [AMENDED]
240:10-13-47. Documents and electronically recorded or stored information [AMENDED]
AUTHORITY:
Oklahoma Employment Security Commission; 40 O.S. §§ 4-302, 4-304, 4-310.1; and 75 O.S. § 250.2(B).
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 1, 2023
COMMENT PERIOD:
December 5, 2023 through January 12, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
March 1, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 1, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 12, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A

REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Clarification as to appeal hearing procedures; updates to work search requirements; updates to check fee and employer account processes; changes to give flexibility for organizational division reporting.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 12, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

240:10-1-2. Definitions [AMENDED]

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

"Business Process Transformation" means a change from paper and pencil process to integrated digital technology.

"Commuting distance" means an automobile driving distance of fifty (50) miles from a claimant's place of residence.

"Electronic" or **"Electronic e-filing"** means submission by email or other digital transmission.

"Full-time work" means employment in thirty-two (32) or more hours of work per week.

"Good cause" means ~~reasons beyond the control of the party seeking relief~~ reasons beyond the control of the party seeking relief a situation beyond the control of the parties. Situations considered beyond the control of a party may include, among other factors, a disabling personal illness, death in immediate family, jury duty, or military obligations. Good cause will not be found if the failure to act is due to the negligence or inattentiveness of the party or the party's representative or attorney-at-law.

"High volume employer" means any employer entity that files more than 30 protests in any month during the previous calendar year in response to benefit claim notices on behalf of itself or client employers.

"Interested Party" means:

(A) In an unemployment claim appeal - the Commission, a claimant who files a claim for unemployment benefits with the Commission, and any employer who properly files a written objection to the claim pursuant to 40 O.S. § 2-503 (E) and 2-507.

(B) In an unemployment tax protest - the Commission and the employer with an account that is directly affected by a decision made by the Commission or its representative.

(C) In a supplemental unemployment benefit plan appeal - the Commission, the employer that made application for approval of the plan, and the collective bargaining agent of the employees, if any exists.

"Leases" and **"Rents"** means a contract between an owner of a business, building, or property and a leasee, in which:

(A) Space is leased, sublet, or rented for the purpose of operating or conducting a trade or business by the leasee;

(B) The lease or rental fee is set at a fixed amount per month, that remains constant for the term of the lease, sublease, or rental contract; and

(C) Is not based upon a percentage of income or revenue earned in the trade or business.

"Mail", "Mailed", and **"Mailing"**, as used in 40 O.S. §1-224, shall mean the mailing of a document through the United States Postal Service or a private delivery service designated by the United States Secretary of the Treasury pursuant to 26 U.S.C. § 7502(f), as a delivery service that may deliver returns, claims, statements, or other documents to the Internal Revenue Service.

"Pandemic" means a health state of emergency declared by the Governor.

"Part-time work" means employment of less than thirty-two (32) hours of work in a week.

"Reasonable cash value" [40:1-218] means an amount estimated and determined by consideration of the position held, type of work performed, duration of the work, and customary compensation of like providers in like industries.

"Reemployment Services" means those services which provide job search assistance and job placement services, which are counseling, testing, and providing occupational and labor market information, assessment, job search workshops, job clubs and referrals to employers, and other similar services.

"RESEA" means Re-Employment Services and Eligibility Assessment.

"RESEA Selection" means:

(A) A systematic computer generated process that:

(i) Identifies those claimants most likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment;

(ii) Refers identified claimants to reemployment services; and

(iii) Collects follow-up information relating to the services received.

(B) Data elements which may be used in the identification process for RESEA selection are:

(i) Recall status;

(ii) Union hiring hall agreement;

(iii) Education;

(iv) Job tenure;

(v) Industry;

(vi) Occupation;

(vii) Unemployment rate;

(viii) Number of prior UI claims; and

(ix) Maximum weekly benefit amount.

(C) Data elements prohibited for usage in RESEA selection are:

(i) Age;

(ii) Race or ethnic group;

(iii) Sex;

(iv) Color;

(v) National origin;

(vi) Disability;

(vii) Religion;

(viii) Political affiliation; and

(ix) Citizenship.

"Temporary help firm" means any firm or entity that hires its own employees and assigns them to clients to support or supplement the client's work force in work situations such as employee absences, temporary skill shortages, seasonal workloads, or special assignments and projects.

"Temporary Layoff" means a short term cessation of work or employment in which the employer maintains an attachment to an employee by means of a recall date. A temporary layoff may be requested by an employer for no more than eight (8) weeks in any benefit year. A request for a temporary layoff must be made by the employer to the Commission in writing and must include a specific recall date within eight (8) weeks of the cessation of work or employment. The employer may apply to the Commission for an extension of the recall date. The extension shall not exceed four (4) additional weeks in the benefit year.

"Temporary Layoff-Federal" means a short-term cessation of work or employment in cases involving a federal agency or federal contractor with employees who have agreed to refrain from seeking employment elsewhere as part of their terms of employment when work is ceased due to the needs of the federal government, and the federal employer or federal contractor maintains an attachment to an employee by means of its contract of employment. In these cases, a recall date will not be required. The provisions of 40 O.S. §2-105.1 on reimbursed pay or back pay shall apply to this type of temporary layoff.

"Third Party Administrator" means any entity that contracts with an employer to perform administrative functions on the employer's behalf related to the employer's compliance with any provision of the Employment Security Act of 1980, or any entity that contracts to represent the employer's interests in any protests, appeal or hearing before any division of the Oklahoma Employment Security Commission or the Board of Review. Attorneys licensed to practice law in Oklahoma who represent clients before the Oklahoma Employment Security Commission, or the Board of Review shall not be considered third party administrators.

"Wages"

(A) **"Gratuities"** or **"Tips"** The employer shall include as wages all monies paid as gratuities or tips received by an individual in the course of his or her work pursuant to 40 O.S. Section 1-218 or, if actual information is not available, gratuities and tips shall be allocated to the employer in the amount of 8% of gross receipts.

(B) **"Noncash remuneration"** Noncash remuneration means meals, lodging or any other payment in kind received by a worker from the employing unit in addition to or in lieu of cash payments for services except for meals and lodging that are furnished on the business premises of the employer for the convenience of the employer pursuant to 40 O.S. Section 1-218(6).

"Wages paid"

(A) The term "wages paid", as defined in 40 O.S. Section 1-219, shall include both wages actually received by the worker and wages constructively paid. Wages shall be considered constructively paid when they are credited to the account of or set apart for a worker so that they may be drawn upon by the worker at any time although not then actually in the worker's possession. A mere crediting of the wages to the worker's account, without actually making them available to the worker so that they may be drawn upon by him/her at any time, does not constitute constructive payment.

(B) In the case of an employer who terminates his/her coverage as of January 1st of some year, the term "wages paid" shall include all wages earned for all pay periods up to and including the last payroll period ending in that year, at the end of which, the employer's coverage is terminated.

(C) "Wages paid" to the worker are to be reported in the calendar quarter in which they were actually paid.

"Week" For the purpose of paying benefits and for the purpose of this Chapter, a "week" as defined in 40 O.S. §1-220 shall consist of a calendar week which begins at 12:01 A.M. Sunday and ends at midnight the following Saturday.

"Working day" means:

(A) For employers, any day the employer as open and conducting its regular business activities.

(B) For claimants, any day the claimant's employer or former employer scheduled the claimant to work and the claimant was present and working at his or her assigned activities for part or all of the scheduled work hours for that day.

"Written notice" means submission by electronic e-filing or by mail.

240:10-1-3. Time computation [AMENDED]

(a) In computing any period of time prescribed or allowed by the Employment Security Act of 1980, by these rules, or by order of a hearing officer, the day of the act, event, or default from which the designated period of time begins to run shall not be included. All intervening days falling between the beginning and end of the time period shall be counted, including Saturdays, Sundays, holidays and any day the offices of the Oklahoma Employment Security Commission are closed for part or all of the day. Time computation shall be calculated utilizing calendar days without exception for time periods less than eleven (11) days, and the ~~The~~ last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes, an Executive Order, or the Federal Statutes, or any other day when the offices of the Oklahoma Employment Security Commission do not remain open for public business until 4:00 p.m., in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday as defined by the Oklahoma Statutes, an Executive Order, or the Federal Statutes or any other day when the offices of the Oklahoma Employment Security Commission do not remain open for public business until 4:00 p.m.

(b) This rule shall not apply to the calculation of the time period set out in rule 240:10-3-23.

SUBCHAPTER 3. BENEFITS

PART 5. ELIGIBILITY

240:10-3-20. Instructions to secure work [AMENDED]

(a) **Able and available to accept employment.** When a claimant files an initial claim for benefits, the Commission shall instruct the claimant that, in addition to registering for work in the Oklahoma labor exchange system or the system in the state in which the claimant resides, the claimant must diligently search for suitable employment.
(b) **Seek and accept work.** The Commission shall require claimants to diligently search for work in a prudent manner that would be expected to secure work using any means that are appropriate and suitable each week. A diligent work search requires that a claimant make the minimum number of weekly work search contacts as required by the OESC ~~two (2) work search efforts each week~~ and consists of some combination of the following elements:

(1) Union members must be registered with the hiring hall or placement facility of their labor union and be a member in good standing.
(2) Participation in reemployment services offered to the claimant by the Commission or any other State Employment Service.
(3) Submit weekly job applications for work with suitable employers.
(4) Register for work, create, and upload a resume with the state's labor exchange system, job boards, placement service of any professional organization the claimant is a member of, temporary work agencies, or educational institution with job placement offices;
(5) Participate in scheduled reemployment services offered by the Oklahoma Employment Security Commission in Workforce Oklahoma Centers or complete similar online or self-service activities.
(6) Participate in employment and training services provided by partner programs in Workforce Oklahoma Centers;
(7) Participate in work-related networking events sponsored by the Oklahoma Employment Security Commission (e.g., job clubs, job fairs, industry association events, networking groups, etc.);
(8) Taking a civil service exam or examinations for work in a governmental agency;
(9) Participate in interviews with employers (virtually or in-person); or
(10) Any other work search activities prescribed by the Commission.

(c) **Increase of work search requirements.** The number of work search efforts described in subsection (b) of this rule shall be increased at the discretion of the Commission ~~based on the circumstances of each claimant~~ if the claimant has not received a job offer within the first six (6) weeks of unemployment.
(d) **Activity log.** The claimant is required to maintain the Commission provided work search activity log, as well as, any associated documentation and make it available for review by Commission representatives, upon request.
(e) **Referrals.** A claimant who receives job referrals from the Commission that are considered to be appropriate or suitable, as otherwise defined in 40 O.S. §2-408, must apply for the job within one week of receiving the referral, and the claimant must accept employment if suitable work is offered. Claimant may be disqualified to receive benefits pursuant to 40 O.S. §Section 2-417-18.
(f) **Waiver of work search requirement.** If an employee is involved in a temporary layoff, a temporary layoff-federal, or is receiving supplemental unemployment benefit payments through an approved plan, the work search requirement is met if the employee maintains an attachment to the employer and remains available to return to work for the employer. The work registration requirement of 40 O.S. §2-204 and work search requirement of 40 O.S. §2-417 may be waived by the Executive Director in consultation with members of the Senior Staff if it is found that claimants in a specific geographic area or region of the state are prevented from making a reasonable work search as a direct result of natural disaster, pandemic, fire, flood, or explosion.
(g) Work search efforts to the same employer for the same role or position may only be repeated every four (4) weeks. Claimants may search for different roles or positions with the same employer, as desired. If employer initiates a second interview and the claimant completes the interview, the second interview may be considered a work search effort for the claimant.

SUBCHAPTER 5. CONTRIBUTIONS

PART 3. RATES

240:10-5-11. Subject employer acquiring the experience rating account of another employer [AMENDED]

When any employing unit acquires the experience rating account of one or more employers under the provisions of 40 O.S. Section ~~3-111 or~~ 3-111.1, and the employing unit was an employer subject to the Employment Security Act of 1980 at the time of the acquisition, the contribution rate for the acquiring employing unit after the acquisition shall be determined as follows:

(1) The experience rating accounts of the successor employer and the predecessor, or predecessors, shall be consolidated for the experience period immediately preceding the acquisition, and the Benefit Wage Ratio shall be computed on the total experience of all the employers.
(2) The Benefit Wage Ratio so computed shall be used to determine the successor's contribution rate for the remainder of the calendar year in which the acquisition occurred. The contribution rate so established shall be applicable to the successor employer beginning with the first day of the calendar quarter in which the acquisition occurred.

240:10-5-12. Nonsubject entity acquiring the experience rating account of an employer [AMENDED]
(a) **One employer acquired.** When any employing unit acquires the experience rating account of an employer under the provisions of 40 O.S. Section ~~3-111 or~~ 3-111.1, and the employing unit was not an employer subject to the Employment Security Act of 1980 prior to the acquisition, the employing unit shall acquire the contribution rate of the employer for the entire calendar year in which the acquisition occurred.
(b) **Two or more employers acquired.** When any employing unit acquires the experience rating account of two or more employers under the provisions of 40 O.S. Sections ~~3-111 or~~ 3-111.1, and the employing unit was not an employer subject to the Employment Security Act of 1980 prior to the acquisition, the contribution rate for the employing unit shall be determined by consolidating the experience rating accounts of the two or more employers acquired for the experience period immediately preceding the acquisition, and the Benefit Wage Ratio computed on the total experience of all the employers so acquired. The Benefit Wage Ratio so computed shall be used to determine the successor's contribution rate for the calendar year in which the acquisition occurred.
(c) An employing unit that was not an employer subject to the Employment Security Act of 1980 prior to acquiring the predecessor employer shall not be allowed to acquire the experience rating account or contribution rate of the predecessor employer if the Commission finds that the employing unit acquired the business solely or primarily for the purpose of obtaining a lower contribution rate.

240:10-5-15. Successor acquiring the experience rating account of predecessor [AMENDED]
(a) **Notification to transferring employer.** When any employing unit acquires a portion of the experience rating account of an employer under the provisions of 40 O.S. Section 3-111.1 ~~3-111(B)~~, and makes written application for a transfer as provided by the Employment Security Act of 1980, written notice of the application for partial transfer shall be mailed or delivered to the transferring employer by a duly authorized Commission representative after receipt of the application.
(b) **Protesting partial transfer.** Within twenty (20) days after the date of mailing or delivery of the written notice, the transferring employer may file a written protest to the transfer and request an oral hearing to present evidence in support of the protest. The hearing shall be conducted in the manner prescribed in 40 O.S. Section 3-115. Pending a final determination of the protest, no transfer of experience rating account shall be made. If it is determined that a transfer of a partial experience rating account should be made, then the accounts and contributions of the transferring and acquiring employers shall be adjusted in accordance with the transfer.
(c) **Partial transfer to non-subject employer.** In the event of a partial transfer of the experience rating account of an employer to an acquiring employing unit, who was not an employer prior to the acquisition, the contribution rate of the acquiring employing unit shall be determined in accordance with the provisions of 40 O.S., Article 3, Part I, based upon the portion of the experience rating account that was transferred. The portion of the experience rating account that was transferred shall not thereafter be used to compute a contribution rate for the transferring employer. The contribution rate computed after the transfer shall be applicable to the acquiring employing unit as of the date of the acquisition.
(d) **Partial transfer to subject employer.** If the acquiring employing unit was an employer prior to the acquisition and transfer, then the experience rating account that was transferred shall be consolidated with the employer's experience rating account prior to the acquisition, and a contribution rate computed on the combined experience under the provisions of 40 O.S., Article 3, Part I. The contribution rate computed after the transfer shall be applicable to the employer beginning with the first day of the calendar quarter in which the acquisition occurred. The portion of the experience rating account that was transferred shall not be used in computing a contribution rate for the transferring employer for any year subsequent to the year in which the transfer was effective.

PART 7. COLLECTION OF CONTRIBUTIONS

240:10-5-32. Application of payments to delinquent tax indebtedness [AMENDED]

(a) When making payments on a delinquent account, an employer may designate a particular calendar quarter to which he or she wants the payment applied. This designation must be made in writing at the time the payment is made to the Commission.
(b) If an employer designates a particular calendar quarter to which he or she wants the payment applied, the payment shall be applied to the indebtedness owing for the quarter in the following manner:
(1) First, to the interest owing in the designated quarter until the interest amount is paid in full.
(2) Second, to the penalties owing in the designated quarter until the penalty amount is paid in full.
(3) Third, to the fees owing in the designated quarter until the fee amount is paid in full.
(4) Fourth, to the tax owing in the designated quarter until the tax amount is paid in full.
(5) Fifth, to the surtax owing in the designated quarter until the surtax amount is paid in full.
(6) If there is any sum of money left over after the payment has been applied to the indebtedness owing for the designated quarter, the remainder of the money shall be applied as set out in subsection (c) of this section.
(c) If an employer makes a payment on a delinquent account and does not designate a particular quarter to which he or she wants the payment to be applied, the payment will be applied in the following manner:
(1) First, to the interest owing in the earliest delinquent quarter until the interest amount is paid in full.
(2) Second, to the penalties owing in the earliest delinquent quarter until the penalty amount is paid in full.
(3) Third, to the fees owing in the earliest delinquent quarter until the fee amount is paid in full.
(4) Fourth, to the tax owing in the earliest delinquent quarter until the tax amount is paid in full.
(5) Fifth, to the surtax owing in the earliest delinquent quarter until the surtax amount is paid in full.
(6) After the payment has been applied in the manner described in paragraphs (1) through (5) of this subsection, any money left over shall be applied in the same manner to the delinquent quarter that is next in time, and this procedure shall be repeated until the payment is exhausted. If there remains any money upon satisfaction of all prior period indebtedness, the remainder will be present in the employer designated quarter as a credit until additional tax indebtedness is incurred.

PART 19. MAINTENANCE AND PRODUCTION OF WORK RECORDS

240:10-5-91. Employer's Quarterly Contribution Wage Reports [AMENDED]
(a) **Due date of report.** Each employer shall report both contributions and "wages paid" (as defined in OAC 240:10-1-2) through the Employer Portal on the Commission Internet website, or if an exception has been granted, on paper Form OES-3, Employer's Quarterly Contribution and Wage Report, for each quarterly period in which the employer is subject to the Employment Security Act of 1980, on or before the last day of the month following the calendar quarter to be reported. However, an employing unit which has not previously qualified as an employer under the Employment Security Act of 1980 and who first qualifies as an employer during a calendar year shall file Form OES-3, Employer's Quarterly Contribution and Wage Reports, for all past periods of that calendar year on or before the due date for the quarterly report for that quarter in which such employing unit becomes an employer subject to the Employment Security Act of 1980.
(b) **Information required.**
(1) All instructions furnished with the official forms must be followed.
(2) All information required on the official forms shall be given.
(c) **Date of filing.** The date of filing of the Employer's Quarterly Contribution and Wage Report shall be determined by the date that an employer's fully completed report form is submitted for filing with the Commission pursuant to 40 O.S. §1-224.
(d) **Report filing.**
(1) This subsection shall apply to all Employer's Quarterly Contribution and Wage Reports that are due for filing after January 1, 2011.
(2) All employers with an assigned Oklahoma State Unemployment Tax Act (SUTA) account number shall be required to file the Employer's Quarterly Contribution and Wage Report through the employer portal on the Commission Internet website, unless an exception is granted by the Commission.
(3) All third-party administrators shall be required to file the Employer's Quarterly Contribution and Wage Report through the employer portal on the Commission Internet website for clients with an assigned Oklahoma SUTA account number, unless an exception is granted by the Commission.
(e) **Payment of Tax.** All employers with an assigned Oklahoma State Unemployment Tax Act (SUTA) account number and all third-party administrators shall be required to pay all amounts due for quarterly state unemployment taxes on or before the last day of the month following the calendar quarter to which the taxes relate. All employers and third- party administrators shall make payment through ACH debit/credit, wire by electronic fund transfer (EFT) or a credit card

acceptable to the Commission; unless an exception is granted by the Commission for the employer or third-party administrator to make payment in an alternative method. A $1.50 service fee per check will be charged to an employer's account if a check is mailed to the Commission for contribution payments.
(f) **Authorization.** This rule is authorized by 40 O.S. §§3-102, 4-302, and 4-503.

240:10-5-96. Application for Oklahoma UI Tax Account Number [AMENDED]
(a) Each employer must file an application for Oklahoma UI Tax Account Number~~, OES-1,~~ through the Employer Portal on the Commission's website in order to establish an Oklahoma UI Tax Account.
(b) All information requested in the online application ~~blocks 1, 2, 3, 4, and 5 of the form~~ must be completed ~~with all information requested~~ including the social security number of the trustees, owners, directors, officers, partners, corporate officers or members of the entity filing the application.
(c) Applicant will furnish all requested information so that a liability result can be determined. Each applicant will be prompted toward questions that are specific to the type of business enterprise they have identified as operating in Oklahoma. Should the applicant be other than a business principle authorized to encumber the business entity for a tax liability the applicant will provide the contact information of said principle to obtain explicit permission for the contents of the application.~~Blocks 6 through 17 must be truthfully filled out with all information that is applicable to the entity. The form must be signed by an owner, partner, director, officer or member of the entity in block 18 with the title of the signator and the date of signing specifically stated.~~
(d) If the Commission becomes aware of the existence of an employer that has failed or refused to file an application ~~a form OES-1,~~ the Commission may file an application ~~the form~~ on behalf of the employer using any information the Commission has available to it.

SUBCHAPTER 11. ASSESSMENT BOARD PROCEDURE

PART 5. HEARINGS

240:10-11-23. Telephone hearings [AMENDED]
(a) Telephone hearings will be set at the discretion of the Director or his/her designee. If a party is dissatisfied with the telephone hearing option, the party may request the Director or designee to assign the case for an in-person hearing.
(b) A request for an in-person hearing must be made five (5) days prior to the scheduled date of the telephone hearing. The request must be in writing and include the employer's name, and an explanation of the reasons for the request.
(c) Requests for in-person hearings will be considered based upon the following:
(1) Good cause shown, such as hearing impairment or language interpretation difficulties.
(2) Geographic location of the parties.
(3) Complexity of the issues.If the director or designee agrees that the request is reasonable, the case will be rescheduled as an in-person hearing.
(d) Each party to a telephone hearing must exchange all documents that will be introduced as evidence with the opposing party and send a copy to the Assessment Board, at least five (5) days prior to the scheduled date of the telephone hearing.
(e) Parties must register based on instructions on the Notice of Hearing~~prior to the scheduled time of the hearing~~. Registration may be completed on-line or by telephone. Third party administrators are required to register on-line and will not be allowed to register by telephone.

SUBCHAPTER 13. APPEAL TRIBUNAL PROCEDURE

PART 1. GENERAL PROVISIONS

240:10-13-4. Organization [AMENDED]
(a) **Creation of Appeal Tribunal.** The Commission hereby establishes the Appeal Tribunal. A Director shall be appointed by the Commission to administer the duties of the Appeal Tribunal and shall be answerable to the Executive Director or their designee.
(b) **Authority of Director.**
(1) The Director shall have supervisory authority over the Chief Hearing Officer, hearing officers and support staff of the Appeal Tribunal.

(2) The Director or designee may reschedule hearings upon notice to the parties, administratively vacate decisions for good cause, grant or deny request for continuance, and issue subpoenas in Appeal Tribunal cases.

PART 5. HEARINGS

240:10-13-32. Telephone hearings [AMENDED]

(a) Telephone hearings will be set at the discretion of the Director or his/her designee. If a party is dissatisfied with the telephone hearing option, the party may request the Director or designee to assign the case for an in-person hearing.
(b) A request for an in-person hearing must be received by the Director five (5) days prior to the scheduled date of the telephone hearing. The request must be in writing and include the claimant's name, and an explanation of the reasons for the request.
(c) Request for in-person hearings will be considered based on the following:

(1) Good cause shown, such as hearing impairment or language interpretation difficulties.
(2) Geographic location of the parties.
(3) Complexity of the issues.
(4) Timely disposition of cases as required by federal law.If the Director or designee agrees that the request is reasonable, the case will be rescheduled as an in-person hearing.

(d) Parties must register based on instructions on the Notice of Hearing ~~prior to the scheduled time of the hearing~~. Registration may be completed on-line or by telephone. Third party administrators are required to register on-line and will not be accepted by telephone.

240:10-13-33. Notice of hearing [AMENDED]

The initial notice of hearing with regard to any case shall be mailed or transmitted electronically by the Appeal Tribunal to all interested parties no fewer than 10 days prior to the scheduled hearing, unless all interested parties waive their right to the 10 day notice. Notice of any subsequent hearings with regard to the same case may be given on the record, or by any other means reasonably calculated to provide reasonable notice of the hearing at any time before the hearing is to take place.

240:10-13-47. Documents and electronically recorded or stored information [AMENDED]

Each party to a hearing before the Appeal Tribunal must deliver all documents and electronically recorded or stored evidence to the Appeal Tribunal at least five (5) days before the date of hearing in order for copies to be made and delivered to the opposing party in preparation for the hearing. Documents must be limited to 50 pages per party unless a showing of good cause for exhibits beyond 50 pages is approved. All documents must be clearly marked with consecutive page numbers.

[OAR Docket #24-742; filed 7-3-24]

TITLE 240. OKLAHOMA EMPLOYMENT SECURITY COMMISSION
CHAPTER 15. BOARD OF REVIEW PROCEDURES

[OAR Docket #24-743]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Appeals to the Board of Review
240:15-3-2. Correspondence with Board of Review; address [AMENDED]
AUTHORITY:
Oklahoma Employment Security Commission; 40 O.S. §§ 4-302, 4-304, 4-310.1; and 75 O.S. § 250.2(B).
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 1, 2023
COMMENT PERIOD:
December 5, 2023 through January 12, 2024
PUBLIC HEARING:

January 17, 2024
ADOPTION:
March 1, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 1, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 12, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Update to Board of Review appeal procedures and contact information.
CONTACT PERSON:
Andrew Chilson, OESC Legal Department, 2401 North Lincoln Boulevard, P.O. Box 53039, Oklahoma City, OK 73152, andrew.chilson@oesc.ok.gov, 405-962-4654.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 12, 2024:

SUBCHAPTER 3. APPEALS TO THE BOARD OF REVIEW

240:15-3-2. Correspondence with Board of Review; address [AMENDED]
(a) An appeal from the Appeal Tribunal decision and all instruments and correspondence regarding any matter before the Board of Review shall be sent to Board of Review, Oklahoma Employment Security Commission, P.O. Box 53345, Oklahoma City, Oklahoma 73152. The Board of Review's ~~telephone number is (405) 962-7570, and the tele~~fax number is (405) 962-7540.
(b) Correspondence pertaining to an appeal shall bear the name of the case and the Appeal Tribunal docket number. Copies of all documents and correspondence sent to the Board by any party to an appeal shall be sent to the other interested parties by the Clerk. ~~A brief or Memorandum of Law may be filed by the appealing party at the time the appeal is filed. If the non-appealing party desires to respond, a brief or Memorandum of Law shall be filed within ten (10) days from the date the appeal was filed.~~

[OAR Docket #24-743; filed 7-3-24]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES
CHAPTER 25. PERSONNEL ADMINISTRATION RULES

[OAR Docket #24-691]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Salary and Payroll
Part 1. SALARY AND RATE OF PAY
260:25-7-12. Payment of overtime [AMENDED]
Part 3. PAYROLL
260:25-7-31. Certification of payrolls [AMENDED]
Subchapter 11. Employee Actions
Part 9. EMPLOYEE GUIDELINES
260:25-11-91. Conduct of employees [AMENDED]
Part 15. AGENCY TRANSFERS
260:25-11-154. Timing a transfer [AMENDED]
260:25-11-156. Transitional status [AMENDED]
Subchapter 15. Time and Leave
Part 3. ANNUAL AND SICK LEAVE POLICIES
260:25-15-10. General Annual and Sick Leave Policies [AMENDED]
260:25-15-11. Annual leave [AMENDED]
260:25-15-12. Sick leave [AMENDED]
Part 5. MISCELLANEOUS TYPES OF LEAVE
260:25-15-45. Family and medical leave [AMENDED]
260:25-15-59. Paid Maternity Leave [NEW]
Subchapter 25. Oklahoma State Employees' Direct Deposit Rules
Part 1. GENERAL PROVISIONS
260:25-25-16. Procedures for direct deposit enrollment and changes [AMENDED]
Part 3. HCM ADMINISTRATIVE POLICIES AND PROCEDURES
260:25-25-37. Confidential records; inspection and release of open records [AMENDED]
Subchapter 29. Human Capital Management Division
Part 1. GENERAL PROVISIONS
260:25-29-12. Location for information and for filing [AMENDED]
Appendix B. Schedule of Annual and Sick Leave Accumulation Limits and Yearly Accruals [AMENDED]
AUTHORITY:
The Office of Management and Enterprise Services, The Human Capital Management Division of the Office of Management and Enterprise Services; 62 O.S. Section 34.6(8), 62 O.S. Section 34.301, 74 O.S. Section 840-1.6A
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
September 21, 2023
COMMENT PERIOD:
November 8, 2023 through December 8, 2023
PUBLIC HEARING:
December 8, 2023
ADOPTION:
January 18, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 24, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor’s Declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rules are amended to remove unnecessary language and to clarify which agency pays the flexible benefit allowance when an employee transfers between two agencies. The rules are amended to reflect the statutory changes regarding time spent working as a contractor for the state for leave and longevity purposes, and state employee annual leave accumulations. The rules are amended to provide the process for the newly created paid maternity leave.
CONTACT PERSON:
Tracy Osburn, Deputy General Counsel, Office of Management and Enterprise Services, Human Capital Management Division, 2401 N. Lincoln Blvd., Oklahoma City, OK 73105; (405) 522-3428; Tracy.Osburn@omes.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 7. SALARY AND PAYROLL

PART 1. SALARY AND RATE OF PAY

260:25-7-12. Payment of overtime [AMENDED]
(a) An Appointing Authority shall neither require nor allow FLSA Non-Exempt employees to work in excess of forty (40) hours a week without establishing and implementing a comprehensive policy for compensation. Such policy shall be in compliance with the Fair Labor Standards Act (29 U.S.C. 201 et seq.). The policy shall be made available by the Appointing Authority to interested persons upon request and the Appointing Authority shall so notify employees. ~~Copies of such policy shall be forwarded to the Human Capital Management Division.~~ This section is not a comprehensive listing of the provisions of the Fair Labor Standards Act (29 U.S.C, 201 et seq.) and regulations promulgated thereunder, and is not intended to conflict with either the Act or the regulations.
(b) FLSA Non-Exempt (as defined by the Fair Labor Standards Act) employees shall be paid 1 1/2 times their regular hourly rate for each overtime hour worked. For the purposes of this rule, "Hours worked" shall not include any form of paid or unpaid leave used by an employee in lieu of the actual performance of work.
(c) The Executive Branch of the State of Oklahoma is one employer for FLSA purposes; therefore, concurrent employment in more than one agency is considered joint employment. Employees working in one or more nonexempt positions in Executive Branch agencies and who work more than forty (40) total hours per week shall be eligible for overtime. Employees shall be required to notify their current agency upon accepting employment with another Executive Branch agency. It will be the responsibility of all agencies involved to ~~insure~~ensure that all FLSA requirements associated with multiple agency appointments are met.

(d) Compensatory time in lieu of overtime payment at the rate of time and one-half may be given to FLSA Non-Exempt employees (as defined by the Fair Labor Standards Act) subject to the following conditions:

(1) Prior to the performance of overtime work, the Appointing Authority and the employee shall agree in writing that the employee may be required to take compensatory time in lieu of overtime pay. A written agreement is not required with respect to employees hired prior to April 15, 1986, if the employer had a regular practice in effect on April 15, 1986, of granting compensatory time off in lieu of overtime pay (29 U.S.C. 553.23).

(2) An employee shall be permitted to use accrued compensatory time within 180 days following the pay period in which it was accrued. The balance of any unused compensatory time earned but not taken during this time period shall be paid to the employee. An Appointing Authority may grant an extension of this time period for taking compensatory time off up to an additional 180 days. Agencies shall not be allowed to extend the initial 180-day time period for employees working in an institutional setting as defined by 74:840-2.15(D) [74:840-2.15(C)].

(3) The maximum compensatory time which may be accrued by a FLSA Non- Exempt employee shall be 480 hours for those employees engaged in a public safety or firefighting activity and 240 hours for all other FLSA Non-Exempt employees.

(4) An employee who has accrued the maximum number of compensatory hours shall be paid overtime compensation for any additional overtime hours worked at the rate of 1 1/2 times their regular hourly rate of pay for each overtime hour worked.

(5) Payment for accrued compensatory time upon termination of employment with the agency shall be calculated at the average regular rate of pay for the final three (3) years of employment, or the final regular rate received by the employee, whichever is the higher.

(6) Overtime and compensatory time is accrued by work period, as defined by the FLSA.

(7) Compensatory time shall not be transferred from one agency to another agency.

(8) An Appointing Authority shall approve an employee's request to take compensatory time off on a particular day, unless the employee's taking compensatory time off on that day disrupts agency operations or endangers public health, safety, or property.

(9) Accrued compensatory time shall be exhausted before the granting of any annual leave for a non-exempt employee except when the employee may lose accrued leave under 260:25-15-10 and 260:2515-11(b) (5).

(10) Adjustments in scheduled work time may be made on an hour-for-hour basis within the work period.

(e) Appointing Authorities may provide compensatory time off to FLSA Exempt (as defined by the Fair Labor Standards Act) employees with the following stipulations:

(1) The compensatory time off shall be taken within time periods and policy outlined in 260:25-7-12(d).

(2) Unused compensatory time shall be taken off the books if not taken by the end of the time periods and policy outlined in 260:25-7-12(d) (2).

(3) Compensatory time shall only be given on an hour-for-hour basis, one (1) hour off for each hour worked overtime. The maximum compensatory time which may be accrued by an FLSA exempt employee shall be the same as that outlined in 260:25-7-12(d) (3).

(4) Payments shall not be made for compensatory time accrued by an employee on FLSA Exempt status for any reason, except as provided for in (f) of this Section.

(f) After submitting written notice to the Human Capital Management Division, an Appointing Authority may provide overtime payments to persons in FLSA Exempt classes based on a prevailing market condition.

PART 3. PAYROLL

260:25-7-31. Certification of payrolls [AMENDED]

(a) **Certification.** No state disbursing or auditing officer shall make, approve or take part in making or approving any payment for personal service to any person holding a position in state government, unless the payroll voucher or account of such pay bears the certification of the Appointing Authority that the persons named therein have been appointed and employed in accordance with the provisions of applicable Oklahoma law.

(b) **Withholding of certification.** The Appointing Authority may for proper cause withhold certification from an entire payroll or from any specific item or items [74:840-1.18(~~D~~B)]. Whenever the Office of Management and Enterprise Services finds that any person is employed or is proposed to be paid as an employee in any amount not provided for under the provisions of applicable law, the Office of Management and Enterprise Services shall notify the concerned state disbursing or auditing officer. After such notice, the concerned state disbursing or auditing officer shall not approve any payment to such person except in accordance with the provisions of the Act or the Merit Rules.

(c) **Recovery of erroneous payments.** Any sum paid contrary to any provision of the applicable law may be recovered in an action maintained by any citizen, from any officer who made, approved or authorized such payment or who signed or countersigned a voucher, payroll, check or warrant for such payment, or from the sureties on the official bond of any such officer [74:840-1.18(~~D~~B)]. All monies recovered in any such action shall be paid into the State Treasury [74:840-1.18(~~D~~B)].
(d) **Right of action by employees employed in contravention to applicable law.** Any person appointed or employed in contravention of any provision of applicable law and who performs service for which unpaid, may maintain an action against the officer or officers who purported to appoint or employ the person in order to recover the agreed pay for such services, or the reasonable value thereof if no pay was agreed upon. [74:840-1.18(~~D~~B)] No officer shall be reimbursed by the state at any time for any sum paid to such person on account of such services [74:840-1.18(~~D~~B)].
(e) **Action to compel payroll certification.** If the Appointing Authority wrongfully withholds certification of the payroll voucher or account of any employee, such employee may maintain an action or proceeding in the courts to compel the Appointing Authority to certify such payroll voucher or account [74:840-1.18(~~D~~B)].

SUBCHAPTER 11. EMPLOYEE ACTIONS

PART 9. EMPLOYEE GUIDELINES

260:25-11-91. Conduct of employees [AMENDED]
(a) Every employee shall fulfill to the best of his or her ability the duties of the office or position conferred upon the employee and shall behave at all times in a manner befitting the office or position the employee holds. In performing official activities, the employee shall pursue the common good, and, not only be impartial, but act so that there can be no question of impartiality.
(b) A employee shall not engage in any employment, activity or enterprise which has been determined to be inconsistent, incompatible, or in conflict with his or her duties as a employee or with the duties, functions or responsibilities of the Appointing Authority by which the person is employed.
(c) Each Appointing Authority shall determine and prescribe those activities within applicable laws, which, for employees under its jurisdiction, will be considered inconsistent, incompatible or in conflict with their duties as employees. In making this determination, the Appointing Authority shall give consideration to employment, activity or enterprise which:

(1) involves the use for private gain or advantage of state time, facilities, equipment and supplies; ~~or,~~or the badge, uniform, prestige or influence of one's state office or employment, or
(2) involves receipt or acceptance by the employee of any money or other consideration from anyone, other than the state, for the performance of an act which the employee would be required or expect to render in the regular course or hours of state employment or as a part of the duties as an employee, or
(3) involves the performance of an act which may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by such ~~classified~~ employee.

(d) Each employee shall devote full time, attention and effort to the duties and responsibilities of his or her position during assigned hours of duty.

PART 15. AGENCY TRANSFERS

260:25-11-154. Timing a transfer [AMENDED]
(a) An employee's resignation date should be the last day of employment with the leaving agency. The receiving agency must initiate the transfer process within Workday with an effective date of the next date, regardless of holiday or weekend. The receiving agency shall pay the next flexible benefit allowance owed for an employee who transfers from another agency following the last day of employment with the leaving agency.
(b) The leaving agency is responsible for annual leave payout for any accrued leave above the accumulation limits set in Oklahoma Administrative Code 260:25-15-11.
(c) The leaving agency should work with the receiving agency to determine how much annual leave will be transferred with the employee in accordance with Oklahoma Administrative Code 260:25-11.
(d) As of that effective date, the receiving agency is now fully responsible for that employee in terms of human resources, payroll, benefits and time tracking. This includes payout of any holidays that fall prior to the employee's first day unless they are placed in a transitional status as set forth in 260:25-11-~~146~~156.

(e) The human resources staff at both the leaving agency and the receiving agency should communicate with one another to coordinate the transfer of an employee. This practice will ensure the transfer date is beneficial for both agencies. Such communication should occur at the beginning and end of the pay period.

260:25-11-156. Transitional status [AMENDED]

Employees can be placed into a transitional status for no more than thirty (30) days. This status follows the rules indicated in 260:25-15-10 regarding leave without pay. Employees placed into a transitional status are employed by the ~~received~~receiving agency during the transitional status period.

SUBCHAPTER 15. TIME AND LEAVE

PART 3. ANNUAL AND SICK LEAVE POLICIES

260:25-15-10. General Annual and Sick Leave Policies [AMENDED]

(a) Employees are eligible for annual leave and sick leave with full pay according to law and the rules in this Chapter. Temporary employees and other limited term employees are ineligible to accrue, use or be paid for sick leave and annual leave [74:840-2.20(A) (3)].

(b) The tables in Appendix B of this Chapter list leave accrual rates and accumulation limits. OAC 260:25-15-11 and 260:25-15-12 also govern annual and sick leave.

(c) Annual and sick leave accrual rates and accumulation limits are based on cumulative periods of employment calculated in the manner that cumulative service is determined for longevity purposes [74:840-2.20(A) (1)]. For purposes of this Subchapter and the longevity pay program, cumulative service shall be calculated as prescribed in this subsection.

(1) State employment with any agency in any branch of state government including service under the administrative authority of the Regents for Higher Education and the Department of Vocational and Technical Education shall be qualifying for purposes of calculating cumulative service. Cumulative service includes periods of part-time qualifying employment in excess of 2/5 time that were continuous for at least 5 months and any period of full-time employment described in (A) through (~~G~~F) of this paragraph:

(A) Full-time or part-time employment;

(B) Temporary or other time-limited employment;

(C) Paid leave;

(D) Leave without pay of 30 continuous calendar days or less; and

(E) Leave without pay in excess of 30 calendar days taken under Section 840-2.21 of Title 74 of the Oklahoma Statutes. Any other leave without pay in excess of 30 calendar days shall not be counted as cumulative service.

(F) Time spent performing services during which the person, rather than the entity the person was employed by, received compensation for duties performed for the state if payment for such service was made using state fiscal resources, including time spent acting as an administrative law judge within the executive department.

(2) Periods of service that are described in (1) of this subsection, shall be combined for purposes of determining cumulative service and the total shall be expressed in whole years. Partial years, less than 12 months, are dropped.

(d) Annual leave and sick leave shall accrue only when an employee is actually working, on authorized leave with pay, or during the time the employee is using paid leave to supplement workers compensation benefits under Section 332 of Title 85. Leave shall not accrue after the last day the employee works.

(e) An employee using paid leave to supplement workers compensation benefits under Section 332 of Title 85 of the Oklahoma Statutes shall be in leave without pay status.

(f) An Appointing Authority may terminate an employee who is absent from work after the employee has exhausted all of his or her sick and annual leave accumulations or paid maternity leave provided by Section 840-2.20D of Title 74 of the Oklahoma Statutes unless the absence is covered by 260:25-15-45 or 260:25-15-49. This subsection does not prevent an Appointing Authority from granting leave without pay according to 260:25-15-47.

260:25-15-11. Annual leave [AMENDED]

(a) Annual leave is intended to be used for vacations, personal business, and other time off work not covered by other paid leave or holiday provisions. An employee may charge family and medical leave, taken in accordance with 260:25-15-45, against annual leave accumulations.

(b) Eligible employees shall accrue annual leave based upon hours worked (excluding overtime), paid leave and holidays [74:840-2.20] in accordance with 260:25-15-10 and the provisions in this subsection, not to exceed the total possible work hours for the month. The hourly rate is equal to the annual accrual divided by the number of work hours in the current year. Annual leave earned during one pay period shall not be available for use until the beginning of the following pay period.

(1) Annual leave shall be applied for by the employee and shall be used only when approved by the Appointing Authority.
(2) Part-time employees shall accrue annual leave in an amount proportionate to that which would be accrued under full-time employment [74:840-2.20].
(3) Annual leave earned during a pay period shall be prorated based upon the number of hours (excluding overtime hours) an employee is on the payroll [74:840-2.20].
(4) An Appointing Authority may require an employee to take annual leave whenever in the administrative judgment of the Appointing Authority such action would be in the best interests of the agency; except that the employee shall not be required to reduce accrued annual leave below 5 days. An Appointing Authority shall not apply this rule in lieu of 260:25-11-120. Leaves of absence for internal investigatory purposes shall be administered according to 260:25-11-120.
(5) Unused accrued annual leave shall be accumulated for no more than the maximum leave accumulation limits specified in ~~260:25-15-10~~the tables in Appendix B of this Chapter. ~~or at~~At the discretion of the Appointing Authority, employees may accrue up to the accumulation limit plus the accrual for one year~~.~~ (360 hours for employees with less than five (5) years of cumulative service, 784 hours for employees with five (5) to ten (10) years of cumulative service, 800 hours for employees with ten (10) to twenty (20) years of cumulative service, and 840 hours for employees with over twenty (20) years of cumulative service). If employees are permitted to accumulate above the accumulation limit, such excess must be used during the same calendar year in which it accrues or within twelve months of the date on which it accrues. Employees shall not be paid for excess leave above the accumulation limit. ~~,if~~If an employee was transferred to an agency by statute or executive order all accumulated leave will be transferred.
(6) Annual leave shall not be taken in advance.
(7) An employee who transfers to another agency may have accrued annual leave transferred at the option of the Appointing Authority to which transferred. The maximum amount transferrable is limited to amount accrued but no more than the accumulation limits plus the accrual for one year, or such Appointing Authority may require that all or a portion of the annual leave be paid by the agency from which the employee is transferred before the transfer. The amount of annual leave paid by the agency from which the employee is transferred shall not exceed the accumulation limits except as established in Section 840-2.20 of Title 74 of the Oklahoma Statutes and the amount of annual leave transferred with the employee shall not exceed the accumulation limits plus the accrual for one year
(8) Any employee who is separated from the state service shall be paid or shall have payment made to the employee's estate for any annual leave accumulated up to and including the accumulation limit except as otherwise provided in the ~~Merit~~Personnel Administration Rules. At no time shall any employee resigning from one position to accept another position within the same agency be paid for accrued annual leave unless there has been a break in service of more than thirty days.
(9) Annual leave shall be charged against an employee's annual leave balance based on the amount of time an employee is absent from work during the employee's assigned work schedule. Holidays falling within a period of annual leave shall not be charged to annual leave.
(10) Any ~~probationary or permanent~~ employee who leaves the employ of an agency shall receive payment for the accrued number of hours of annual leave in accordance with the hourly rate. Payment may only be withheld pending settlement of a legal debt to the agency. If a person is reemployed by the State within a period of 30 calendar days from the date of separation, any portion of the accumulated annual leave which has not yet been paid may be reinstated.

260:25-15-12. Sick leave [AMENDED]

Eligible employees shall accrue sick leave based upon hours worked (excluding overtime) , paid leave, and holidays [74:840-2.20(A) (1)] according to 260:25-15-10 and this Section, not to exceed the total possible work hours for the month. The hourly rate is equal to the annual accrual divided by the number or work hours in the current year. Sick leave earned during one pay period shall not be available for use until the beginning of the following pay period.

(1) Sick leave means a period when the employee cannot work because of sickness, injury, pregnancy, or medical, surgical, dental or optical examination, or treatment, or where the employee's presence at work would jeopardize the health of the employee or others. An employee may charge family and medical leave, taken in accordance with 260:25-15-45, against sick leave accumulations.
(2) An employee shall not use sick leave for annual leave.
(3) An employee shall not use sick leave before it is accrued.
(4) ~~Immediately on return to work, an employee who has been absent on sick leave shall give the Appointing Authority a signed statement that the absence was due to reasons listed in (1) of this Section.~~Appointing Authorities shall have controls in place to ensure employees only utilize sick leave for the reasons listed in (1) of this Section. If an absence exceeds 3 working days, the employee shall give the Appointing Authority a physician's statement unless the Appointing Authority waives it. For shorter absences, the Appointing Authority may require the employee to supply proof the absence was consistent with (1) of this Section. Sick leave shall not be granted until approved by the Appointing Authority. An Appointing Authority shall approve sick leave unless there are facts to show that an employee abused sick leave privileges or the employee failed to supply requested evidence of illness.
(5) Sick leave shall be charged against an employee's sick leave balance based on the amount of time an employee is absent from work during the employee's assigned work schedule. Holidays, or the scheduled days off for holidays, occurring within a period of sick leave shall not be charged to sick leave.
(6) Sick leave earned during a pay period shall be prorated according to the number of hours (excluding overtime) an employee is on the payroll [74:840-2.20(A) (1)].
(7) Part-time employees shall accrue sick leave in an amount proportionate to that which would have accrued under full-time employment [74:840-2.20(A) (1)].
(8) When an employee transfers from one agency to another, the Appointing Authority of the receiving agency shall give the employee credit for all unused sick leave accumulations.
(9) Employees shall not be compensated for accumulated sick leave when they separate from state service.
(10) If an absence because of illness or injury extends beyond the sick leave an employee has accumulated, the Appointing Authority may charge additional absence to the employee's annual leave accumulations.
(11) Unless it is against the law, an Appointing Authority shall approve sick leave when an employee is absent due to illness or injury and receiving Oklahoma State Workers Compensation benefits.
(12) If an employee leaves the state service on or after October 1, 1992, and is reemployed within a period of 2 years from the date of separation, the Appointing Authority may reinstate all or a part of the unused sick leave accumulated during the previous period of continuous employment with the state [74:840-2.20(A) (6)].
(13) There is no limit on sick leave accumulations.

PART 5. MISCELLANEOUS TYPES OF LEAVE

260:25-15-45. Family and medical leave [AMENDED]

(a) The federal Family and Medical Leave Act of 1993 entitles eligible employees to family and medical leave. This section is not a comprehensive listing of the provisions of the federal Family and Medical Leave Act of 1993 (29 U.S.C, 2601 et seq.) and regulations promulgated thereunder, and is not intended to conflict with either the Act or the regulations. To be eligible, an employee shall have been employed by the state at least 12 months and have worked at least 1,250 hours during the preceding 12-month period.
(b) An eligible employee is entitled to family and medical leave for up to a total of 12 weeks during any 12-month period, for the following reasons:
(1) the birth of the employee's son or daughter, and to care for the newborn child;
(2) the placement with the employee of a son or daughter for adoption or foster care;
(3) to care for the employee's spouse, son, daughter, or parent with a serious health condition. As used in this subsection, "son" or "daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability;
(4) a serious health condition that makes the employee unable to perform the functions of the employee's job; or
(5) any qualifying exigency (as defined by U.S. Department of Labor Regulations) arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a contingency operation.

(c) An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 weeks of leave during a 12-month period to care for the service member. The leave described in this paragraph shall only be available during a single 12-month period. During the single 12-month period described in this paragraph, an eligible employee shall be entitled to combined total of 26 weeks of leave under paragraph (b) and (c). Nothing in this paragraph shall be construed to limit the availability of leave under paragraph (b) during any other 12-month period.
(d) An Appointing Authority may require that an employee's request for family and medical leave to care for the employee's seriously-ill spouse, son, daughter, or parent, or due to the employee's own serious health condition that makes the employee unable to perform one or more of the essential functions of the employee's position, be supported by a certification issued by the health care provider of the employee or the employee's ill family member. An Appointing Authority may require a certification issued by the health care provider of a covered service member being cared for by an employee.
(e) The entitlement to family and medical leave resulting from (b)(1) and (b)(2) of this Section expires at the end of the 12-month period beginning on the date of the birth or placement.
(f) When family and medical leave is taken to care for a sick family member as defined in (b)(3) of this Section, a covered service member as referenced in (c) of this Section, or for an employee's own serious health condition, leave may be taken intermittently or on a reduced leave schedule when it is medically necessary. When family and medical leave is taken for a qualifying exigency as referenced in (b)(5) of this Section, leave may be taken intermittently or on a reduced leave schedule. An Appointing Authority may adopt a policy allowing family and medical leave to be taken intermittently to care for a newborn child or newly placed adopted or foster child.
(g) Whenever it is possible, an employee shall schedule family and medical leave to accommodate the operations of the employee's agency. An employee shall give the Appointing Authority notice and a leave request at least 30 days before leave is to begin if the need for family and medical leave is expected. In any case in which the necessity for leave under (b)(5) of this Section is foreseeable, the employee shall provide such notice to the employer as is reasonable and practicable. When the need for family and medical leave is unexpected, an employee shall give the Appointing Authority notice and a leave request as soon as possible. The notice and request shall:

(1) be in writing;
(2) describe the reason for the family and medical leave;
(3) specify the type of leave the employee is requesting to account for the time off; and
(4) include any information or documentation required for the type of leave requested.

(h) The Appointing Authority has the responsibility to review requests for sick leave and leave without pay for designation as family and medical leave. The Appointing Authority has the right to designate leave taken for an FMLA-qualifying event as FMLA leave, regardless of whether the employee has requested FMLA leave. The Appointing Authority's designation decision shall be based only on information provided by the employee or the employee's spokesperson. In accordance with the federal Family and Medical Leave Act, the Appointing Authority shall not designate leave as family and medical leave retroactively, unless the Appointing Authority does not have sufficient information concerning the employee's reason for taking the leave until after the leave period has begun.
(i) Family and medical leave is not a separate type of leave, and it is not accrued or accumulated. An Appointing Authority shall give employees the following options to account for time lost because of leave under the federal Family and Medical Leave Act of 1993.

(1) Charge to paid maternity leave if the employee is eligible to receive such leave [74:840-2.20D]. In the event paid maternity leave is available, such leave shall be used first as required by 260:25-15-59(e).
~~(1)~~(2) Charge to accumulated annual leave [74:840-2.22];
~~(2)~~(3) Charge to accumulated sick leave [74:840-2.22];
~~(3)~~(4) Charge to leave donated by other state employees under Section 840-2.23 of Title 74 of the Oklahoma Statutes, which is also known as "shared leave";
~~(4)~~(5) Charge to accumulated compensatory time.; or
~~(5)~~(6) Record as leave without pay in accordance with 260:25-15-47.

(j) The agency shall continue paying the employee's insurance coverage while the employee is on family and medical leave.
(k) Upon return from family and medical leave, an employee shall have the right to be restored to the same or equivalent position and benefits, except for extension of his or her anniversary date for longevity pay, leave accrual, and calculation of retention points, he or she would have had if the employee had been continuously employed in pay status during the leave period.
(l) An employee shall not be required to take more leave than necessary to resolve the circumstance that precipitated the need for leave.

260:25-15-59. Paid Maternity Leave [NEW]

(a) **Purpose.** The purpose of this Rule is to interpret Section 840-2.20D of Title 74 of the Oklahoma Statutes (Section 840-2.20D). Section 840-2.20D establishes eligibility, standards and procedures for state employees to receive paid maternity leave.

(b) **Eligibility to receive paid maternity leave.** In order to receive paid maternity leave as established by Section 840-2.20D of Title 74, an employee must be currently employed by the state working in a full-time status of forty (40) hours per week. Males and females are eligible to receive paid leave following the birth or adoption of the employee's child.

(c) **Prior time worked required before receiving paid maternity leave.** In addition to the requirements set forth in the previous provision, a state employee must have been working in a full-time status at the state agency that will be providing the paid maternity leave for at least two (2) years immediately preceding the request to use the paid maternity leave.

(d) **Absences where paid maternity leave can be used.** Paid maternity leave is available only following the birth or adoption of the state employee's child. Paid maternity leave is not available for other purposes, such as for pregnancy-related medical care or following the placement of a child with the state employee for foster care or under a guardianship.

(e) **Paid maternity leave to be taken first.** Paid maternity leave shall be used to account for time lost following the birth or adoption of a child before utilizing any other options available to state employees under 260:25-15-45.

(f) **Amount of paid maternity leave available to state employees.** A state employee's prior paid maternity leave at either the state employee's current state agency or another state agency does not affect the ability to receive and use additional paid maternity leave following the birth or adoption of a subsequent child provided the state employee meets the eligibility requirements set forth in sections (b) and (c) of this Rule.

(g) **Family Medical Leave Act and paid maternity leave.** The state agency shall place all state employees who are eligible under the Family Medical Leave Act (FMLA) on FMLA leave concurrently with the paid maternity leave. In the event the state employee has exhausted the FMLA leave available to him or her and then is eligible to receive paid maternity leave or exhausts the FMLA leave before all of the paid maternity leave is exhausted, the Appointing Authority shall allow the employee to use the remaining balance of the six weeks of paid maternity leave before returning to work.

(h) **Intermittent usage of paid maternity leave.** If the Appointing Authority has adopted a policy that allows family and medical leave to be taken intermittently to care for a newborn child or newly adopted child as permitted by 260:25-15-45(f), then the state employee can take the paid maternity leave intermittently to care for his or her newborn child or newly adopted child.

(i) **Time period paid maternity leave is available.** Paid maternity leave is available to cover time taken following the birth or adoption of a child beginning November 1, 2023. If the Appointing Authority allows family and medical leave to be taken intermittently, the entitlement to receive paid maternity leave expires at the end of the 12-month period beginning on the date of the birth or adoption.

(j) **Availability of paid maternity leave to both parents who work for the same state agency.** If two state employees work for the same state agency and request paid maternity leave to cover the same period of absence, the state agency shall allow up to the full six (6) weeks of paid maternity leave to both state employees so long as both state employees meet the eligibility requirements set forth in sections (b) and (c) of this Rule. This provision shall have no effect on the limitations within the Family Medical Leave Act that prescribe eligible spouses who work for the same employer are limited to a combined total of twelve (12) workweeks of leave in a twelve (12) month period for the birth of a son or daughter and bonding with the newborn child or the placement of a son or daughter with the employee for adoption and bonding with the newly-placed child.

(k) **Salary earned while on paid maternity leave.** A state employee who is receiving paid maternity leave shall receive his or her full salary and all other benefits to which the state employe is entitled under the law and terms of employment.

(l) **Annual and sick accrual while on paid maternity leave.** A state employee who is receiving paid maternity shall continue to accrue annual and sick leave in accordance with 260:25-15-11(b) and 260:25-15-12.

(m) **Paid maternity leave and career progression.** The previous or current receipt of paid maternity leave shall have no effect on the state employee's career progression, which shall include the following:

(1) determination of seniority with the state agency,
(2) pay or pay advancement, and
(3) performance awards.

(n) **Accrual and Accumulation of paid maternity leave.** Unlike annual and sick leave, paid maternity leave does not accrue and accumulate. If an eligible employee does not utilize paid maternity leave in the time allowed under this Rule, paid maternity leave is no longer available for that eligible occurrence. Because paid maternity leave does not accrue and accumulate, upon separation from state service, no paid maternity leave is available to be used as compensation.

SUBCHAPTER 25. OKLAHOMA STATE EMPLOYEES' DIRECT DEPOSIT RULES

PART 1. GENERAL PROVISIONS

260:25-25-16. Procedures for direct deposit enrollment and changes [AMENDED]
(a) Procedures for employees under the Office of Management and Enterprise Services payroll accounting system. To authorize direct deposit, employees under the Office of Management and Enterprise Services payroll accounting system, or its successor, shall enter the specific financial institution and checking or savings account information directly into the system. Employers may make exceptions to employee direct entry into the system. A completed direct deposit authorization form shall then be provided to the ~~employer~~employee for entry into the system. The employee shall attach the form to an official document from the financial institution. (For example, an employee may attach a blank check with the word "VOID" printed across it.) The official document shall show the financial institution's FedACH routing number and employee's deposit account number. An employee shall directly enter banking information into the system or provide the completed form to the employer prior to the employer's deadline for the desired effective date of the first electronic funds transfer, change or termination.
(b) Procedures for employees not under the Office of Management and Enterprise Services payroll accounting system. Employees of agencies not under the Office of Management and Enterprise Services payroll accounting system shall complete and submit automatic deposit transmittal forms according to the instructions of their employers.

PART 3. HCM ADMINISTRATIVE POLICIES AND PROCEDURES

260:25-25-37. Confidential records; inspection and release of open records [AMENDED]
(a) State employees supply personal information to HCM or other state ~~employers~~employees to facilitate their personal banking needs under the Act. Public disclosure of this information would be a clearly unwarranted invasion of the employees' personal privacy under Section 24A.7 (A)(2) of Title 51 of the Oklahoma Statutes. Therefore, the Administrator shall not release that information for public inspection.
(b) State employee home addresses, state employee home telephone numbers, and state employee social security numbers shall not be open to public inspection or disclosure [74:841.6A].
(c) Section 260:25-29-14 contains other general standards and procedures for inspecting and copying HCM records.

SUBCHAPTER 29. HUMAN CAPITAL MANAGEMENT DIVISION

PART 1. GENERAL PROVISIONS

260:25-29-12. Location for information and for filing [AMENDED]
(a) The address and telephone number for communications with HCM is: Human Capital Management Division, Lincoln Data Center, ~~Will Rogers Building,Suite 106,~~ ~~2401~~ 3115 North Lincoln Boulevard, Oklahoma City, OK 73105-4904, Telephone (405) 521-2177.
(b) The normal business hours of HCM are 8:00 a.m. to 5:00 p.m., Monday through Friday.
(c) Anyone may file a document with HCM by mail or hand-delivery during normal business hours. The "filing date" is the date HCM receives a document by mail or hand-delivery, not the date it is mailed or postmarked.
(d) Unless a document clearly states otherwise, the signature of a person on a document filed with HCM shall mean the person has read it and has personal knowledge of the information it contains, that every statement is true, that no statements are misleading; and that filing the document is not a delay tactic. If any document is not signed or is signed with intent to defeat the purposes of the rules in this Title, the Administrator may ignore it and continue as though it had not been filed.

APPENDIX B. SCHEDULE OF ANNUAL AND SICK LEAVE ACCUMULATION LIMITS AND YEARLY ACCRUALS [AMENDED]

Annual and Sick Leave Accumulation Limits and Yearly Accruals [74:840-2.20(2)] Note: "Days" refers to 8-hour working days.						
	Annual Leave			Sick Leave		
Years of Cumulative Service	Yearly Accrual (days)	Yearly Accrual (Hours)	Accumulation Limit (days/hours)	Yearly Accrual (days)	Yearly Accrual (Hours)	Accumulation Limit (days/hours)
Less than 5 years	15 days/year	120 hours	30 days/240 hours	15 days/year	120 hours	No Limit
more than 5 but less than 10 years	18 days/year	144 hours	80 days/640 hours*	15 days/year	120 hours	No Limit
10 to 20 years	20 days/year	160 hours	80 days/ 640 hours*	15 days/year	120 hours	No Limit
Over 20 years	25 days/year	200 hours	80 days/640 hours*	15 days/year	120 hours	No Limit
*Except as provided in 260:25-15-11(b)(5) Note: Accrual rate is an hourly rate equal to the annual accrual divided by the number of work hours in the current year.						

[OAR Docket #24-691; filed 6-27-24]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES
CHAPTER 60. FACILITIES MANAGEMENT

[OAR Docket #24-694]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Use of Public Areas of Capitol and Plazas
260:60-3-6. Provisions for events, exhibits and art exhibits [AMENDED]
AUTHORITY:
Office of Management and Enterprise Services; 74 O.S. §63(A)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
September 21, 2023
COMMENT PERIOD:
October 16, 2023 through November 16, 2023
PUBLIC HEARING:
N/A
ADOPTION:
January 18, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 26, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024

EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Due to an increasing number of incidents in the State Capitol during events held by the public, Chapter 60, Facilities Management, is being amended to address these issues, better protect the Capitol and its contents, and recoup increased costs incurred by the Office of Management and Enterprise Services caused by the incidents. Rules are being amended to require presence of OMES staff during events held by the public in the Capitol, and allowing OMES to recoup the related cost. Rules are also being amended to prohibit structures (such as tents) in the Capitol and to prohibit events which exceed the maximum occupancy limit set by the State Fire Marshal. A rule requiring event sponsors to pay for damages caused during their event is being amended to clarify that damages may include the cost of assessing the damage in addition to costs of repair.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. USE OF PUBLIC AREAS OF CAPITOL AND PLAZAS

260:60-3-6. Provisions for events, exhibits and art exhibits [AMENDED]

(a) The following provisions apply to all events, exhibits or art exhibits:

(1) Sponsors shall confine events, exhibits and art exhibits to the public areas specified in the reservation and shall not relocate to, install, or erect additional paraphernalia in other areas of the Capitol or plazas unless the Office grants prior approval.

(2) No intoxicating beverage will be dispensed or consumed on state property.

(3) Use of cooking or heating elements of any kind is prohibited. Crock pots are allowable with prior permission.

(4) Placement of materials of any kind on structures, fixtures or vehicles in a state parking lot in conjunction with an event, exhibit or art exhibit is prohibited. The Office may remove and dispose of, or cause to be removed and disposed of, the materials without notice.

(5) Unless authorized in the reservation application, affixing banners, signs, or materials in any manner on or in the Capitol or plazas, or to an appurtenance of the Capitol or plaza, or any contents of the Capitol including furniture, fixtures, equipment or artwork is prohibited. The Office may remove and dispose of, or cause to be removed and disposed of, the signs or banners without notice. Sponsors will be held financially responsible for any damage to the Capitol, its contents, or a Plaza, including but not limited to the cost of assessing the damage and the cost of repair.

(A) Plaza. Use of handheld signs and signs on hand sticks are allowed.

(B) Capitol. Use of handheld signs is allowed in the Capitol. Signs mounted on sticks or rods are not allowed.

(6) No individual or group may restrict access to, from or within the Capitol or a plaza.

(7) No individual or group shall cause unreasonable risk to works of art, public property or persons within the Capitol or plaza.
(8) The Office prohibits commercial activity, collection of fees, solicitation of money, or fund raising events which solicit or collect money, in the Capitol or on a plaza. State agencies and non-profit organizations that sell goods to benefit or promote the function of the agency or non-profit organization may request an exemption from the Director.
(9) Events, exhibits or art exhibits for the purpose of promoting a profit making organization or individual are prohibited except as otherwise provided by law. Display of business cards or other means the Office considers promotional are prohibited.
(10) Use of audio devices may be restricted or altered to a decibel level which does not disturb or disrupt other persons in the Capitol or on a plaza. No event or activity shall exceed 90 decibels.
(11) The Office may order or seek to cause cessation of an event, activity, exhibit or art exhibit which may pose a hazard, as determined by the Office, to an individual, group, building, contents of the building, or building fixtures and appurtenances.
(12) A sponsor shall place electrical cords and cables used for events, exhibits or art exhibits so that the cords and cables limit potential hazard to persons in the area. Electrical cords and cables must be placed out of walkways unless secured to the floor.
(13) Compressed gas cylinders are prohibited.
(14) Waste accumulation of any kind in any area or manner so as to create a potential hazard to health, safety or property is prohibited.
(15) Open flames (including candles), confetti, balloons, rice, birdseed or other similar substances in conjunction with events, activities, exhibits or art exhibits are prohibited.
(16) All reptiles, animals and fowl, with the exception of assistance dogs and law enforcement canines, are prohibited in the Capitol or on a plaza.
(17) Food and drinks are not allowed on the plazas, with the exception of water.
(18) Structures of any kind, including tents and canopies, are not allowed in the Capitol or on a Plaza. A waiver of this prohibition may be requested pursuant to 260:60-1-3.

(b) **Requirements at end of event, exhibit or art exhibit.** A sponsor shall remove all materials used in conjunction with or created by an event, exhibit or art exhibit immediately following the conclusion of the event, exhibit or art exhibit.
(c) **Unauthorized events or activities.** Sponsors shall confine events, activities, exhibits and art exhibits to the purpose of the event specified in the reservation. Security personnel is authorized to intervene and take appropriate action upon detection of unauthorized events or activities.

[OAR Docket #24-694; filed 6-27-24]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES
CHAPTER 65. CONSTRUCTION AND PROPERTIES [AMENDED]

[OAR Docket #24-690]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Construction Contracting
260:65-1-11. Contract award [AMENDED]
260:65-1-22. Contractor appeals process [AMENDED]
260:65-1-23. Consultant appeals process [AMENDED]
260:65-1-25. Contractor suspension [NEW]
Subchapter 5. Minimum Codes for State Construction
260:65-5-3. Construction requirements; reviews and permits [AMENDED]
Subchapter 23. Fees for Services
260:65-23-1. Purpose [AMENDED]
260:65-23-2. Fees for services [AMENDED]
AUTHORITY:
61 O.S. § 62,103,302.1, 204, 209, 211; Director of the Office of Management and Enterprise Services

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
September 21, 2023
COMMENT PERIOD:
October 16, 2023 through November 30, 2023
PUBLIC HEARING:
November 27, 2023
ADOPTION:
February 23, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 23, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amendments are necessary to clarify remedies available to contractors and consultants in administrative appeals, allow building inspections when in the best interest of the State, increase the amount of insurance required on state construction projects due to escalating costs in the industry, and to provide more clarity and transparency in the methodology for setting fees for the provision of project management and construction administration.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. CONSTRUCTION CONTRACTING

260:65-1-11. Contract award [AMENDED]
(a) Bids are awarded to the lowest responsible bidder as determined by the review of the bids pursuant to 260:65-1-10. Approximately 15 to 20 days after the bid opening, the successful bidder shall be notified by the Department of his selection and shall be provided copies of the contract to execute. The contractor shall be given a specific period of time, not to exceed sixty days, in which to execute the contract and obtain the necessary bonds and insurance. [61 O.S., Section

113(A)]
(b) The notice to proceed, or WORK ORDER, shall not be issued until the contract has been executed by all parties. Work shall not commence until the WORK ORDER has been received by the contractor.
(c) Projects over the amount set in 61 O.S., Section 113(B) require three bonds. The bonds shall be prepared on the forms provided by the Department. All bonds required by Title 61 shall be provided by insurance carriers, bonding companies or surety companies that are prequalified by the Department as good and sufficient in accordance with criteria established in 260:65-1-9(a). [61 O.S., Section 204A(11)

(1) **Performance bond.** A bond with good and sufficient security valued at not less than the total value of the proposed contract which shall ensure the proper and prompt completion of the work in accordance with the contract and shall ensure that the contractor shall pay all indebtedness incurred by the contractor and his subcontractors and all suppliers for such labor, material and repair of and parts for equipment as are used and consumed in the performance of the contract.

(2) **Defect bond.** A good and sufficient bond in an amount equal to the total value of the contract to protect the State against defective workmanship and materials for a period of one year after acceptance of the project.

(3) **Payment bond.** A good and sufficient bond in an amount equal to the total value of the contract to protect the State against claims or liens from subcontractors or suppliers for services or materials used in the project.

(d) ~~**Letters of credit.** Irrevocable letters of credit may be substituted for the bonds listed in (c) of this Section. Each letter of credit must be for the total value of the contract. All letters of credit must be executed on forms prescribed by the Administrator.~~

~~(c)~~ Insurance. Minimum insurance requirements on all state projects are as follows:

(1) ~~Public~~General liability insurance of not less than ~~$100/300,000~~$1,000,000/5,000,000,

(2) Property damage insurance of not less than ~~$50/100,000 and~~$1,000,000/5,000,000,

(3) Automobile liability insurance of not less that $1,000,000/5,000,000,

(4) Builder's risk as stated in the bid documents, and

(5) Excess umbrella insurance of $5,000,000 ~~workers' compensation insurance during construction are required for all projects, regardless of project size~~.

~~(2)~~(6) Proof of workers' compensation insurance shall be required for all projects exceeding the amount stated in 61 O.S., Section 113(B). The minimum level of coverage shall be the statutory requirement specified by Oklahoma law.

~~(3)~~(7) For projects less than the amount stated in 61 O.S., Section 113(B), a sworn affidavit certifying an exemption to the requirement of workers' compensation insurance coverage may be accepted in lieu of proof of workers' compensation insurance. The sworn affidavit shall be executed on a form prescribed by the Administrator.

~~(f)~~(e) Additional insurance. Additional forms of insurance or increases in the insurance amounts may be required. Any additions or increases shall be contained in the bid documents.

260:65-1-22. Contractor appeals process [AMENDED]

(a) If a contractor's claim has not been resolved after consideration by the consultant in accordance with the General Conditions for Construction Contracts, the claim shall be submitted in writing to the owner. The owner will render to the parties the owner's written decision relative to the claim, including any change in the contract sum or contract time or both within ten (10) calendar days.
(b) The contractor may appeal the owner's decision by submitting written notice of a protest to the Director of the Office of Management and Enterprise Services within ten (10) calendar days of receiving the owner's decision.
(c) The Director will review the protest and determine to hear the appeal or assign the appeal to an administrative law judge the OMES retains.

(1) If the appeal is assigned to an administrative law judge, the administrative law judge shall review the appeal for legal authority and jurisdiction.

(2) If legal authority and jurisdictional requirements are met, the administrative law judge shall conduct an administrative hearing in accordance with the Administrative Procedures Act, 75 O.S. Section 309 et seq., and provide proposed findings of fact and conclusions of law to the Director.

(3) If the protest is heard by the Director, the Director shall have all powers granted by law including all powers delegated to the administrative law judge by this section.

(d) The Director shall send written notice to the contractor of the final decision sustaining or denying the contractor's appeal.
(e) Administrative hearings shall be conducted in accordance with the Administrative Procedures Act [75 O.S. §250 et seq.] and the following procedures:

(1) A prehearing conference shall be scheduled to determine the legal or factual issues which shall be limited to those brought by the contractor in its initial claim.
(2) The burden of proof shall be upon the contractor, which must prove its case by a preponderance of the evidence. A preponderance of the evidence is that evidence which, in light of the record as a whole, leads the Administrative Law Judge to believe a fact is more probably true than not true.
(3) Corporations must be represented by legal counsel in accordance with Oklahoma law. Legal counsel must be licensed or registered pursuant to the Rules Creating and Controlling the Oklahoma Bar Association.
(4) In addition to the contractor and the Office of Management and Enterprise Services, the state agency for which the bid was let may participate in the ~~bid~~ protest proceedings as a proper party.
(5) The conduct of discovery is governed by the Administrative Procedures Act, 75 O.S. Section 309 et seq. and other applicable law.
(6) The Administrative Law Judge may:
(A) Establish a scheduling order;
(B) Establish reasonable procedures such as authorizing pleadings to be filed by facsimile or electronic mail;
(C) Rule on all interlocutory motions, including requests for a temporary stay of the contract award pending a final order from the Director;
(D) Require briefing of any or all issues;
(E) Conduct hearings;
(F) Rule on the admissibility of all evidence;
(G) Question witnesses; and
(H) Make proposed findings of fact and conclusions of law to the Director.
(7) The Administrative Law Judge may recommend that the Director deny or sustain the contactor's appeal, and may further recommend a change in the contract sum or contract time or both. If the appeal is in regard to a contractor suspension, the Director may deny the appeal and allow the suspension to stand, or sustain the appeal and end the suspension or shorten the time of the suspension.
(f) If the Director denies a contractor's appeal, the contractor may appeal to district court pursuant to provisions of 75 O.S., Section 309 et seq. of the Administrative Procedures Act.

260:65-1-23. Consultant appeals process [AMENDED]
(a) The owner and consultant shall endeavor to resolve claims, disputes and other matters in question between them by participating in a meeting to obtain a mutual agreement. If an agreement cannot be attained, the consultant may appeal by submitting written notice of a protest to the Director of ~~Central Services~~the Office of Management and Enterprise Services within twenty-one (21) days of the settlement meeting immediately preceding the protest.
(b) The Director will review the protest and determine to hear the appeal or assign the appeal to an administrative law judge the Department retains.
(1) If the appeal is assigned to an administrative law judge, the administrative law judge shall review the protest for legal authority and jurisdiction.
(2) If legal authority and jurisdictional requirements are met, the administrative law judge shall conduct an administrative hearing in accordance with the Administrative Procedures Act, 75 O.S. Section 309 et seq., and provide proposed findings of fact and conclusions of law to the Director.
(3) If the ~~protest~~appeal is heard by the Director, the Director shall have all powers granted by law including all powers delegated to the administrative law judge by this section.
(c) The Director shall send written notice to the consultant of the final order sustaining or denying the consultant's appeal.
(d) Administrative hearings shall be conducted in accordance with the Administrative Procedures Act [75 O.S. §250 et seq.] and the following procedures:
(1) A prehearing conference shall be scheduled to determine the legal or factual issues which shall be limited to those brought by the contractor in its initial claim.
(2) The burden of proof shall be upon the consultant, who must prove his case by a preponderance of the evidence. A preponderance of the evidence is that evidence which, in light of the record as a whole, leads the Administrative Law Judge to believe a fact is more probably true than not true.
(3) Corporations must be represented by legal counsel in accordance with Oklahoma law. Legal counsel must be licensed or registered pursuant to the Rules Creating and Controlling the Oklahoma Bar Association.
(4) In addition to the contractor and the Office of Management and Enterprise Services, the consultant awarded the contract and the state agency for which the bid was let may participate in the bid protest proceedings as a proper party.

(5) The conduct of discovery is governed by the Administrative Procedures Act, 75 O.S. Section 309 et seq. and other applicable law.
(6) The Administrative Law Judge may:
(A) Establish a scheduling order;
(B) Establish reasonable procedures such as authorizing pleadings to be filed by facsimile or electronic mail;
(C) Rule on all interlocutory motions, including requests for a temporary stay of the contract award pending a final order from the Director;
(D) Require briefing of any or all issues;
(E) Conduct hearings;
(F) Rule on the admissibility of all evidence;
(G) Question witnesses; and
(H) Make proposed findings of fact and conclusions of law to the Director.
(7) The Administrative Law Judge may recommend that the Director deny the consultant's appeal or that remedies be imposed.
(e) If the Director denies a consultant's appeal, the consultant may appeal pursuant to provisions of 75 O.S., Section 309 et seq. of the Administrative Procedures Act.

260:65-1-25. Contractor suspension [NEW]
(a) **Suspension.** The Department may suspend a contractor in accordance with this provision for a period of not less than six (6) months and not exceeding five (5) years. Suspension shall mean that the contractor is not permitted to bid on state construction projects and is not eligible to be awarded state contracts during the period of suspension.
(b) **Cause for suspension.** Cause for suspension shall be any of the following reasons:
(1) a contractor fails to post or allows to expire a bid bond, performance bond, payment bond, or insurance required by 260:65-1-11;
(2) a contractor fails to perform pursuant to the contract;
(3) a contractor provides the Department with false, misleading, inaccurate, or materially deficient information;
(4) a contractor fails to keep a bid firm, for the period specified, after the solicitation closing date;
(5) a contractor fails to resolve a dispute with a state agency;
(6) upon the final decision by the appropriate regulatory authority or court of competent jurisdiction that a contractor engaged in discriminatory practices;
(7) a contractor misrepresents, fails to provide, or allows to expire a professional certification required by a contract with the Department;
(8) a contractor colludes with other contractors to restrain competitive bidding;
(9) a contractor provides a state employee or state official with a kickback;
(10) the Department determines, in its sole discretion, that a contractor is no longer responsible or qualified to do business with the State of Oklahoma;
(11) a contractor violates any provision of the Public Competitive Bidding Act of 1974;
(12) any other reason the Department determines appropriate; or
(13) violation of applicable ethics rules or laws.
(c) **Suspension notice.** The Department shall send written notice of suspension to a contractor designating the suspension period, which shall begin three (3) business days from the date of the notice and shall expire no later than the end of the period specified in the notice.
(d) **Contractor suspension appeal.** A contractor may appeal a suspension in writing to the Director within ten (10) business days of receipt of the suspension notice; pursuant to 75 O.S. § 309 and the provisions of 260:65-1-22; however, the contractor shall be suspended pending a determination of the appeal.
(e) **Contractor request for reinstatement.** A suspended contractor may request reinstatement from the Director prior to the end of the contractor's suspension period. The Director may consider reinstating the contractor upon submission by the contractor of documents that indicate a change of conditions.
(f) **Contractor reinstatement.** If the Director reasonably believes that the contractor demonstrates the ability to satisfy requirements for performance of state contracts, the Director shall send written notice of reinstatement to the contractor.

SUBCHAPTER 5. MINIMUM CODES FOR STATE CONSTRUCTION

260:65-5-3. Construction requirements; reviews and permits [AMENDED]

(a) Each facility shall be constructed or improved in such a manner as to provide reasonable safety from fire, smoke, panic and related hazards and to ensure a high level of health, comfort and well-being for all occupants.
(b) Building construction and renovation will require formal code review and a building permit, unless otherwise determined by the Department. When required by the Department, construction plans and specifications shall be reviewed by the agency with applicable code jurisdiction according to policy prescribed by the Director.
(c) Plans and specifications for State construction projects shall be reviewed and approved by the OSFM, who shall issue a permit upon approval. When directed by the Department, said plans shall also be reviewed by the Risk Management Department of the Office of Management and Enterprise Services. No project shall be let for public bids until such prescribed reviews are concluded and a building permit is issued by OSFM. Fees for plan review and permits shall be paid from the agency project funds.
(d) When a State construction project requiring a permit from OSFM is located within a local code enforcement jurisdiction, the Department encourages obtaining an additional building permit from the local jurisdiction or arrangement of cooperative inspections. The Department, or it's agent, may invite a cooperative review between OSFM and the local jurisdiction and authorize payment for a local permit from the project funds.
(e) The Department may require certain building inspections whenever it determines that such inspections are in the best interests of the State. The Department will notify the Using Agency of any required inspections as early in the project as possible. Costs of such inspections shall be paid by the Using Agency.

SUBCHAPTER 23. FEES FOR SERVICES

260:65-23-1. Purpose [AMENDED]

The Department may collect reasonable fees for the purpose of providing or contracting for architectural, engineering, and land surveying, planning, real estate and related services to state agencies; from persons requesting plans and notification of solicitations issued by the Department; and, for contract management for a construction project. [Title 61, Section 208.1] The purpose of this subchapter is to establish a methodology by which a schedule of reasonable fees for services provided by the Department will be determined and maintained.

260:65-23-2. Fees for services [AMENDED]

(a) **General Provisions.** Upon requesting specific services, a state agency shall submit a requisition or request form prescribed by the ~~Administrator~~Director which states the service requested and verifies the corresponding fee from the schedule provided published by the Department. When required by the fee schedule, the Agency shall attach a purchase order for the specified fee amount, listing the Department as the vendor. The Department will invoice the Agency for the specified fee upon completion of the service. The fee is for a service provided by the Department and is fulfilled by the specified action by the Department. The fee is not contingent on the performance of an outside vendor retained as a result of the service rendered by the Department.
(b) **Establishment of fees.** The Department shall establish a fee schedule for services provided by the Department. The fee schedule shall be published on the OMES website and shall not become effective earlier than the 31st day following such publication. Services covered by the fee schedule shall include but not be limited to providing or contracting for architectural, engineering, land surveying, planning, real estate, contract management, notification of solicitations, and related services. The Department shall not increase fees more than once per fiscal year. Prior to adopting an increase in fees, the Department shall notify the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives. The Department may decrease fees at any time without prior notification.
(c) **Methodology.** Fees shall be established according to the Department's best calculation or approximation of its cost for providing each service, taking into account the project size, complexity, and management time and effort required by the Department for that category of services.~~Fee schedule for non-mandatory services. The following fees shall be collected for non-mandatory services provided by the Department:~~

~~(1) DCS Roof Asset Management Program - Five (5%) of roofing contract price.~~
~~(2) DCS On-Call Consultants Program - Ten (10%) of Consultant's Fee~~
~~(3) DCS Testing Program - Ten (10%) of Testing Consultant's Fee~~
~~(4) DCS Land Surveying Program -Ten (10%) of Land Surveyor's Consultant Fee~~
~~(5) Other Specialized Consulting or Contracting services - Up to 10% of Consultant's fee and/or contract price~~
~~(6) Architectural or Engineering consultation services - Hourly rates of Department personnel and administrative expenses of the Department~~

~~(c) Fees for bid document services. The Department shall collect a fee for the actual cost of notification of solicitations and printing of bid documents plus 15% for Department administrative expenses from persons requesting plans and notification of solicitations issued by the Department.~~
~~(d) Contracting and contract management fees. The Department will charge reasonable fees for providing, contracting and managing consulting or construction contracts. [61 O.S., § 208.1]~~
~~(1) Fees will be based on project size, complexity and management effort required by the Department.~~
~~(2) The Department will determine the appropriate level of contract management services for each project.~~
~~(3) A fair and reasonable fee schedule will be established by the Department for routine standard services and for expanded contract management services. The fee schedule will be published on the Department website and, in no case, will such fees exceed:~~
~~(A) a lump-sum fee of $250.00 for small construction contracts not exceeding the statutory amount defined by 61 O.S., § 103 (B);~~
~~(B) 5% of the construction contract amount for large construction contracts defined by 61 O.S., § 103 (A);~~
~~(C) $500.00 for contracting for architectural, engineering and land surveying services.~~

[OAR Docket #24-690; filed 6-27-24]

TITLE 260. OFFICE OF MANAGEMENT AND ENTERPRISE SERVICES
CHAPTER 130. CIVIL SERVICE AND HUMAN CAPITAL MODERNIZATION RULES [AMENDED]

[OAR Docket #24-689]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [AMENDED]
260:130-1-2. Definitions [AMENDED]
Subchapter 3. State Employee Dispute Resolution Program
260:130-3-2. Mediation [AMENDED]
Subchapter 5. Jurisdiction, Rights and Processes [AMENDED]
260:130-5-6. Complaint petition [AMENDED]
260:130-5-11. Transcripts [AMENDED]
Subchapter 7. Hearing Process
260:130-7-1. Prehearing conference [AMENDED]
260:130-7-4. Hearing [AMENDED]
Subchapter 11. Confidential Whistleblower Program
260:130-11-1. Confidential whistleblower program [AMENDED]
Subchapter 15. Salary and Payroll Uniform Structure
260:130-15-2. Pay range and pay increase catalog and codes [AMENDED]
Subchapter 17. Recruitment and Selection
260:130-17-5. Testing [REVOKED]
Subchapter 19. Employee Actions
Part 1. GENERAL PROVISIONS
260:130-19-2. Agency personnel records [AMENDED]
Subchapter 27. Disciplinary Actions
260:130-27-4. Records [AMENDED]
AUTHORITY:
62 O.S. § 64.301; The Director of the Office of Management and Enterprise Services
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
September 21, 2023
COMMENT PERIOD:
November 8, 2001 through December 9, 2023
PUBLIC HEARING:
December 8, 2023

ADOPTION:
January 18, 2023
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 23, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rules are amended to reflect statutory changes to the Civil Service and Human Capital Modernization Act and remove unnecessary language. The rules are amended to update the responsibilities of the mediators and include the administrative law judge review as a step following mediation. The rules are amended to update the items included in a complaint petition and the process for requesting a recording or transcript. The rules are amended to update the responsibility of an administrative law judge regarding settlement and to clarify that the Civil Service Division determines the process for administering the confidential whistleblower program. The rule on testing is revoked. The rules are amended to require documentation regarding an employee's exempt status to be included in the employee personnel and disciplinary files.
CONTACT PERSON:
Tracy Osburn, Deputy General Counsel, Office of Management and Enterprise Services, Human Capital Management Division, 2401 N. Lincoln Blvd., Oklahoma City, OK 73105; (405) 522-3428; Tracy.Osburn@omes.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS [AMENDED]

260:130-1-2. Definitions [AMENDED]

The following words and terms, when used in this Chapter, shall have the following meaning:

"Act" means the Oklahoma Civil Service and Human Capital Modernization Act.

"Action" or "**disciplinary action"** means issuing a written reprimand, punitively transferring an employee, suspending an employee without pay, involuntarily demoting an employee, or terminating an employee. The action is taken by providing a document in person that specifically states the type of action taken against the employee. In the event the Appointing Authority is unable to provide the document to the employee in person, the Appointing Authority may

utilize acceptable electronic means, and the action will be complete upon receipt by the employee.

"Action occurred" means the date the action was taken.

"Administrative Law Judge" or **"ALJ"** means a person appointed by the Civil Service Division and empowered to preside over prehearing conferences and hearings with power to administer oaths, take testimony, rule on questions of evidence and make final decisions. All ALJs shall be licensed to practice law in the State of Oklahoma and in good standing with the Oklahoma Bar Association.

"Administrative Procedures Act" or **"APA"** means the Oklahoma Administrative Procedures Act set forth at Section 250 et seq. of Title 75 of the Oklahoma Statutes.

"Administrator" means the Director of the Office of Management and Enterprise Services. As the term is used in the Civil Service and Human Capital Modernization Rules, the term includes employees and the Administrator of Human Capital Management of the Office of Management and Enterprise Services to whom the Administrator has lawfully delegated authority to act on his or her behalf.

"Affidavit" means a sworn written statement, made voluntarily, and taken before a person with authority to administer an oath or affirmation.

"Affidavit of service" means a sworn written statement certifying that a motion, request or other document has been provided to other persons.

"Agency" means any office, department, board, commission or institution of the executive branch of state government.

"Allegation" means the claims of a party.

"Allege" means to state, assert or charge; to make an allegation.

"Allocation" or **"Position allocation"** means the process by which a position is assigned to an established job profile. A position is allocated on the basis of duties, authority, responsibilities, and other appropriate factors.

"Appointing Authority" means the chief administrative officer of an agency. As the term is used in the Rules, the term includes employees of an agency to whom the Appointing Authority has lawfully delegated authority to act on his or her behalf.

"Burden of proof" means the obligation of a party to establish alleged fact(s) by a preponderance of evidence.

"Civil Service Division" means the division within Human Capital Management that is responsible for receiving and hearing complaints as described in the Civil Service and Human Capital Modernization Act set forth at Section 34.301 of Title 62 of the Oklahoma Statutes.

"Civil Service Division Director" means the person designated by Human Capital Management to take action on behalf of the Civil Service Division.

"Complainant" means the state employee filing the complaint.

"Complaint" means, as a verb, the filing of a complaint petition, or as a noun, the procedure that takes place after a complaint petition is filed.

"Consolidation" means the combining of complaints containing the same or similar issues but filed by two (2) or more complainants into a single complaint.

"Continuance" means a postponement of a matter scheduled by Human Capital Management or the mediator to a date certain.

"Demotion" means the reduction in salary of an employee with or without a change in job profile. Demotion may be voluntary or involuntary.

"Deny" means to refuse to grant or accept.

"Disciplinary file" means the record of all disciplinary actions leading up to a written reprimand, punitive transfer, suspension without pay, demotion, or termination, the final action taken, and all relevant supporting documents.

"Dismiss" means to close without further consideration.

"Evidence" means relevant documents or testimony offered to prove or disprove the existence or non-existence of a fact.

"Exempted employee" means an employee to whom the provisions of the Act do not apply. Exempted employees must be designated in the central system of record by the employing executive branch agency. Exempted employees are:

(A) Persons employed by the Governor, Lieutenant Governor, Oklahoma House of Representatives, Oklahoma State Senate, Legislative Service Bureau, or the Legislative Office of Fiscal Transparency;

(B) Elected officials;

(C) Political appointees;

(D) District attorneys, assistant district attorneys or other employees of the district attorney's office and the District Attorneys Council;

(E) The state judiciary or persons employed by the state judiciary; or

(F) Not more than five percent (5%) of an agency's employees designated as executive management as determined by the agency director. The number of employees shall be determined by the number of active position identification numbers an agency has.;
(G) Temporary employees employed to work less than one thousand (1,000) hours in any twelve-month period;
(H) Seasonal employees employed to work less than one thousand six hundred (1,600) hours in any twelve-month period;
(I) Employees in a trial period; or
(J) State employees whose employment status is otherwise provided by law.

"Exhibit" means items offered as evidence.

"Ex-parte communication" means communications by anyone with an ALJ or the Civil Service Division Director on the merits of a complaint which could affect its outcome.

"File" or **"Filing"** means submitting a complaint or other documents on the Civil Service Division's on-line filing system, or any acceptable means determined the Civil Service Division or the receipt of documents by the Civil Service Division.

"Grant" means to give or permit.

"Hearing" means an open, formal proceeding conducted by an ALJ. The proceeding is to provide each party with an opportunity to present evidence in support of their side of the case. The hearing is governed by the Oklahoma Administrative Procedures Act, Sections 309 through 316 of Title 75 of the Oklahoma Statutes.

"Human Capital Management" or **"HCM"** means Human Capital Management of the Office of Management and Enterprise Services.

"Initial appointment" or **"original appointment"** means the act of an Appointing Authority hiring a person for the first time as a state employee.

"Job code" means an identifying code that:
(A) corresponds to a job profile, including, but not limited to, the basic purpose, typical functions performed, and the knowledge, skills, abilities, education, and experience required, and
(B) does not include FLSA status or pay rate type, and
(C) identifies the suggested pay range.

"Job family" means:
(A) jobs which require similar core skills and involve similar work, and
(B) a logical progression of roles in a specific type of occupation in which the differences between roles are related to the depth and breadth of experience at various levels within the job family and which are sufficiently similar in duties and requirements of the work to warrant similar treatment as to title, typical functions, knowledge, skills, abilities, education, and experience required.

"Job level" or **"level"** means a role in a job family having distinguishable characteristics such as knowledge, skills, abilities, education, and experience.

"Job profile" means a level in a job family.

"Joinder" means the combining of two (2) or more complaints of one complainant.

"Jurisdiction" means the authority of the Civil Service Division to complete its duties and responsibilities.

"Jurisdictional limitations" means the statutory restrictions on the scope, time limits, and type of appeals which may be considered by the Civil Service Division.

"Mediator" means a person who assists and facilitates the parties involved in a complaint to come to a resolution.

"Minimum qualifications" means the requirements of education, training, experience and other basic qualifications for a job.

"Moot" means no longer in dispute because issues have already been decided or when rendered, a decision could not have any practical effect on the existing dispute.

"Motion" means a request for a ruling to be made by a ALJ or the Civil Service Division Director.

"New position" means a position not previously existing.

"Office of Management and Enterprise Services" means the Human Capital Management Division of the Office of Management and Enterprise Services.

"Order" means a command or directive given by an ALJ or the Civil Service Division Director.

"Party" means a complainant or respondent.

"Position" means a group of specific duties, tasks and responsibilities assigned by the Appointing Authority to be performed by one person; a position may be part time or full time, temporary, occupied or vacant.

"Prehearing conference" means a proceeding conducted by an ALJ with the parties to identify the issues, documents, witnesses and motions which will guide the ALJ in the conduct of the hearing.

"Preponderance of evidence" means information or evidence which is more convincing or believable than the information or evidence offered in opposition.

"Punitive transfer" means a transfer that is directed at and affects only one employee employed by the Appointing Authority. A punitive transfer must relocate the affected employee to a new worksite that is fifty (50) or more miles from the employee's previous worksite. A transfer that results from a closure of a worksite location or building or affects two or more employees does not qualify as a punitive transfer.

"Reallocation" or **"Position reallocation"** means the process of reassigning an established position, occupied or vacant, from one job profile to another.

"Reassignment" means the process of changing an employee from one job family to another job family or from one job level to another job level in the same job family, resulting in a change in the employee's assigned job profile.

"Regular and consistent" means, in connection with an employee's work assignments, the employee's usual and normal work assignments, excluding incidental, casual, occasional tasks, and activities the employee assumes without direction to do so. Temporary work assignments of less than sixty (60) days in any twelve (12) month period are not considered regular and consistent.

"Reinstatement" means the reappointment of a former employee and does not trigger the trial period.

"Relevant" means directly related to the issue or issues being examined.

"Remedy" means corrective action sought by or afforded to a party.

"Representative" means the designated attorney of record, who shall be licensed to practice law in the state of Oklahoma identified in the complaint petition or through an entry of appearance or other written means, acting on behalf of a party. An individual other than an attorney licensed to practice law in the state of Oklahoma may act as the representative of the party if approved by the mediator or ALJ.

"Resignation" means an employee's voluntary termination of his or her employment with the state.

"Respondent" or **"Responding agency"** means the state agency which the complaint has been filed against.

"Rules" means the Civil Service and Human Capital Modernization Rules**.**

"State employee" or **"employee"** means an employee [within the executive branch, excluding employees within The Oklahoma State System of Higher Education] in state service afforded the protections under the Act set forth at Section 34.301 of Title 62 of the Oklahoma Statutes and these Rules.

"Stipulation" means a voluntary admission of fact.

"Subpoena" means an order to appear at a certain time and place to give testimony.

"Subpoena Duces Tecum" means an order requiring the production of books, papers and other documents.

"Supervisor" means an employee [within the executive branch, excluding employees within The Oklahoma State System of Higher Education] who has been assigned authority and responsibility for evaluating the performance of other state employees.

"Sustain" means to grant a request; to grant a complaint.

"Testimony" means statements given by a witness under oath or affirmation.

"Trial period" means a working test period lasting for a period of one year following the initial hiring of a state employee into state service, the hiring of an employee who is transferring from one state agency to another state agency, or the hiring of an employee returning to state service following a break in service. The Appointing Authority has the authority to waive the trial period at any time at their discretion.

"Veteran" means any person who served the full obligation for active duty, reserves or National Guard service in the military, or received an early discharge for a medical condition, hardship or reduction in force; and has been separated or discharged from such service honorably or under honorable conditions.

SUBCHAPTER 3. STATE EMPLOYEE DISPUTE RESOLUTION PROGRAM

260:130-3-2. Mediation [AMENDED]

(a) **General.** Mediation provides an opportunity for the parties to present and discuss settlement with each other and a mediator in order to resolve the issues of a complaint. The parties may discuss, negotiate and settle any differences or issues to reach a resolution to the complaint. The Civil Service Division will assign a mediator to the complaint as set forth in 260:130-3-4.

(b) **Party responsibility.** Each party shall be present and on time. Complainant's failure to do so may result in dismissal of the complaint unless good cause is shown. Each party is expected to negotiate in good faith, without time constraints, and put forth his or her best efforts with the intention to settle, if possible. Even if the parties do not reach a complete settlement, they may reach agreement on various issues.

(1) The complainant shall speak for himself or herself or with the assistance of a Representative.

(2) The Appointing Authority shall send one person to speak and act on behalf of the Appointing Authority with full settlement authority and a Representative.

(3) Each party attending mediation shall have knowledge and the ability to discuss the facts around the action.

(c) **Party submissions.** At the mediation, each party shall provide to the mediator a ~~copy of a mediation statement, which shall may include a~~ proposed settlement offer.

(d) **Representation.** Each party to the complaint may have a Representative, as defined within these Rules, accompany him or her to the mediation . Representatives will be expected to take an active role in mediation, but will not be allowed to interrogate or question any party. As set forth above in 260:130-1-1, an individual other than an attorney licensed to practice law in the state of Oklahoma may act as the representative of the party if approved by the mediator or ALJ.

(e) **Mediator.** The mediator shall:

(1) take an active role in the mediation to aid the parties in the discussion of settlement and resolution of the complaint;

(2) have the flexibility to adapt the mediation to the situation at hand;

(3) have the authority to require any party to produce documents, limited to the disciplinary file as defined within these Rules, for review at the mediation if to do so will aid in the discussion of settlement and resolution of the complaint. Documents produced and reviewed at the mediation shall not become part of the complaint record at that time; and

(4) terminate the mediation because of the disruptive behavior or conduct of a party or representative.

(5) approve or deny the attendance of non-participating observers for training purposes;

(6) reschedule the mediation if the party is determined to be impaired or otherwise unable to participate. All parties shall be required to attend the rescheduled mediation. The rescheduling of mediations pursuant to this provision shall conform to the statutory time requirements for conducting a hearing.

(f) **Mediation**. The mediation shall be informal, structured by the mediator, and not open to the public. The mediation shall be a confidential procedure and shall not be filmed or taped.

(1) **Notice.** At least seven (7) calendar days before the scheduled mediation, the mediator shall notify the parties of the date, time and location of the mediation.

(2) **Location.** The mediation shall be held at the appointing authority office or any other location determined appropriate by the mediator.

(3) **Witnesses.** Witnesses shall not appear or give testimony at the mediation.

(4) **Caucus.** The mediator may call a caucus at any stage of the mediation.

(5) **Continuance.** A request for continuance shall be submitted to the mediator in writing no less than three (3) calendar days before the mediation date. The mediator shall follow the requirements of OAC 260:130-5-13 and shall reschedule the mediation ensuring the timing requirements of OAC 260:130-5-13 are followed.

(g) **Agreement.** If agreement between the parties is reached, it shall be reduced to writing and signed by each party and the mediator. The agreement shall be reviewed and approved by the Civil Service Division Director or his or her designee for complaints arising from termination, suspension without pay, involuntary demotion, or punitive transfer before dismissal of the complaint shall be entertained. The agreement shall become part of the complaint record. All mediation agreements are enforceable by a court of competent jurisdiction.

(h) **Conclusion.** The mediator shall end the mediation when an agreement is reached and reduced to writing. If an agreement is not reached, the mediator shall end the mediation when he or she determines settlement is not possible, unless sooner terminated for just cause. If agreement is not reached:

(1) a complaint arising from termination, suspension without pay, involuntary demotion, or punitive transfer shall continue on for a prehearing conference and hearing or administrative law judge review.

(2) a complaint arising from written reprimand will be considered closed and the agency's action will stand.

SUBCHAPTER 5. JURISDICTION, RIGHTS AND PROCESSES [AMENDED]

260:130-5-6. Complaint petition [AMENDED]

(a) A complaint petition shall contain the following information:

(1) the name, address and telephone number of the complainant. The complainant shall maintain a current address with the Civil Service Division throughout the complaint process. Failure to do so shall be cause for dismissal of the complaint.

(2) the name of the agency against whom the complaint is filed;

(3) the date the action (written reprimand, punitive transfer, suspension without pay, involuntary demotion, or termination) occurred;

(4) if the action taken did not occur in person, a description of how the state employee was provided notice of the action;
(5) the basis for the complaint stating the facts.
(6) a statement of the remedy the complainant is seeking;
(7) the name, address and telephone number of the complainant's representative, if any;
(8) signature of the complainant and representative, if any;
(9) a copy of the disciplinary action letter that was issued to the complainant.

(b) Failure to provide any of the above listed information may result in immediate dismissal of the complaint.
(c) Complaints shall not exceed twenty (20) pages inclusive of exhibits.

260:130-5-11. Transcripts [AMENDED]

(a) Hearings shall be recorded by digital recordings. The Civil Service Division's recording will serve as the official recording for purposes of creating an official written transcript. In accordance with the Oklahoma Administrative Procedures Act, Section 309 of Title 75 of the Oklahoma Statutes, copies of the recordings shall be provided by the Civil Service Division at the request of any party to the proceeding. Costs of transcription of the recordings shall be borne by the party requesting the transcription ~~The Civil Service Division shall prepare a written transcript of the recording only upon written requestand receipt of a deposit of cash or cashier's check in an amount determined to be appropriate to cover the costs associated with the transcription, except as prohibited by statute.~~

~~(b) Upon application, the Civil Service Division shall pay transcription costs on behalf of an indigent respondent if the respondent establishes indigent conditions through execution of an *in forma pauperis* affidavit upon a form approved by the Civil Service Division. Should the indigent respondent receive a financial recovery, the respondent shall reimburse the Civil Service Division from those proceeds.~~

(~~c~~b) Any party desiring to have a hearing recorded by a court reporter shall request approval by the ALJ before initiating such action. The party making the request shall bear the associated expenses and costs and shall provide a copy of the written transcript to the Civil Service Division at no cost.

SUBCHAPTER 7. HEARING PROCESS

260:130-7-1. Prehearing conference [AMENDED]

(a) **Purpose.** The Civil Service Division may schedule a prehearing conference on any complaint set for hearing. The conference provides an opportunity for the parties to clarify, isolate and dispose of procedural matters prior to the hearing.
(b) **Party responsibility.** Each party shall be present, on time and prepared. Complainant's failure to do so may result in dismissal of the complaint unless extraordinary circumstances exist and are shown. Prior to the prehearing conference each party shall file with the Civil Service Division and provide to each other party and the ALJ a copy of:
(1) a brief statement of his or her respective case, to include a list of stipulations and requested remedy;
(2) the names of the witnesses allowed at the hearing and their contact information; and~~;~~
(3) a description of the documents and exhibits allowed at the hearing and copy of each document and exhibit to be offered.
(c) **Representation**. Each party to the complaint may have a Representative, as defined within these Rules, to speak and act on his or her behalf.
(d) **ALJ responsibility.** The ALJ shall:
(1) consider, facilitate and rule on settlement in the event settlement occurs during the hearing or administrative law judge review process;
(2) consider any matters which will aid in the fair and prompt resolution and disposition of the complaint;
(3) hear and rule on pending requests or motions~~;~~.
(e) **Conference**. The conference shall be informal, structured by the ALJ and not open to the public. The ALJ shall record the conference by digital recording.

(1) **Notice.** Each party shall be notified of the date, time and location at least seven (7) calendar days prior to the scheduled conference.
(2) **Location.** The conference shall be conducted at the Human Capital Management offices or any other location determined appropriate by the ALJ.
(3) **Witnesses.** Witnesses shall not appear or present evidence at the conference.
(4) **Continuance.** A request for continuance shall be filed in accordance with OAC 260:1305-13 no less than three (3) calendar days prior to the scheduled conference. The ALJ, or in his or her absence, the Civil Service Division, shall rule on the request in accordance with OAC 260:130-5-13.

(f) **Conclusion**. The ALJ shall end the conference when preparation for the hearing is complete, unless sooner terminated as a result of settlement or for other just cause.

260:130-7-4. Hearing [AMENDED]

(a) **Purpose.** The hearing provides each party the opportunity to present witnesses and evidence as allowed by these Rules in support of his or her respective case for decision by an ALJ. Hearings shall be conducted in accordance with the Act, the Administrative Procedures Act and the Rules in this chapter.
(b) **Party responsibility.** Each party shall be present, on time and prepared. Complainant's failure to do so may result in dismissal of the complaint unless extraordinary circumstances exist and are shown.
(c) **Representation.** Each party to the complaint may have a Representative, as defined within these Rules, to speak and act on his or her behalf.
(d) **ALJ responsibility.** The ALJ shall rule on questions of admissibility of evidence, competency of witnesses and any other matters or questions of law.
(e) **Process.** The hearing shall be formal, structured by the ALJ and open to the public. Parts of a hearing may be ordered closed when evidence of a confidential nature is to be introduced or where to do so would be in the best interests of a party, witness, the public or other affected persons. The ALJ shall record the hearing by digital recording and such recording shall constitute the official recording of the hearing.

(1) **Notice.** Each party shall be notified of the date, time and location at least seven (7) calendar days prior to the scheduled hearing.
(2) **Location.** The hearing shall be held at the Civil Service Division offices or any other location determined appropriate. At the prehearing conference any party may request the hearing be changed to a more convenient location. The ALJ shall rule on the request and may change the location when to do so is in the best interests of the Civil Service Division and parties.
(3) **Witnesses.** The ALJ shall administer an oath or affirmation to each witness.
(4) **Continuance.** A request for continuance shall be filed in accordance with OAC 260:1305-13 no less than three (3) calendar days prior to the scheduled hearing. The ALJ, or in his or her absence, the Civil Service Division, shall rule on the request in accordance with OAC 260:130-5-13.

(f) **Witnesses allowed at the hearing.** The witnesses allowed at the hearing shall be limited to
(1) the Human Resources Director or designee;
(2) the supervisor;
(3) the employee bringing the complaint;
(4) additional witnesses approved by the ALJ;

(g) **Documents allowed at the hearing.** The documents allowed at the hearing shall be limited to the documents contained in the disciplinary file.

(~~i~~h) **Burden of proof.** The following burden of proof shall apply to all hearings under the jurisdiction of the Civil Service Division (termination, involuntary demotion, suspension without pay, or punitive transfer). The burden of proof shall be upon the complainant who must prove his or her case by a preponderance of the evidence that there was no reasonable basis for the disciplinary action by the state agency.

(1) If the Complainant fails to prove that there was no reasonable basis for the disciplinary action by the state agency, the ALJ shall dismiss the complaint;

(2) If the Complainant proves that there was no reasonable basis for the disciplinary action by the state agency, an ALJ may order the reinstatement of the employee, with or without back pay and other benefits. An ALJ may also order that documentation of the disciplinary action be expunged from any and all of the employee's personnel records and disciplinary file.

(3) Upon a finding that a reasonable basis existed for a disciplinary action, but did not exist for the severity of the discipline imposed or progressive discipline standards were not properly followed, an ALJ may order reduction of the discipline to a lower level of progressive discipline.

(~~3~~4) An ALJ who orders reinstatement with back pay and other benefits under (2) above, may consider the deduction of any income the employee may have received for the period of time the employee was not performing his or her duties.

SUBCHAPTER 11. CONFIDENTIAL WHISTLEBLOWER PROGRAM

260:130-11-1. Confidential whistleblower program [AMENDED]

The Civil Service Division will act as the central repository for all whistleblower complaints. All whistleblower complaints will be maintained as confidential and be routed to the appropriate party for review and disposition. Whistleblower complaints will be limited to agency or employee mismanagement and the misuse of state funds or property. The Civil Service Division determines the processes for administering this program.

SUBCHAPTER 15. SALARY AND PAYROLL UNIFORM STRUCTURE

260:130-15-2. Pay range and pay increase catalog and codes [AMENDED]

Human Capital Management will establish and maintain a master catalog of all state pay ranges and reasons for pay increases. ~~Each reason for pay increase will be assigned a code.~~ Human Capital Management will provide guidance, assistance, and information regarding the pay range and pay increase catalog and codes.

SUBCHAPTER 17. RECRUITMENT AND SELECTION

260:130-17-5. Testing [REVOKED]

~~The Appointing Authority and HCM will collaborate to develop testing requirements for positions and job families.~~

SUBCHAPTER 19. EMPLOYEE ACTIONS

PART 1. GENERAL PROVISIONS

260:130-19-2. Agency personnel records [AMENDED]

Each agency shall maintain an adequate set of applicant and employee personnel records. These records shall include: performance evaluations, promotional forms, attendance records, the employee disciplinary file, and any other documents that affect an individual's employment status with the agency, including but not limited to documentation illustrating that the employee is exempt

from the provisions of the Act .

SUBCHAPTER 27. DISCIPLINARY ACTIONS

260:130-27-4. Records [AMENDED]

(a) The Appointing Authority shall maintain documentation of discipline in the employee's agency disciplinary file as defined within these Rules consistent with the General Records Schedule of the Oklahoma Department of Libraries, Office of Archives and Records. When an employee who is exempt from the provisions of the Act is disciplined, the Appointing Authority shall place documentation illustrating such exemption into the employee's disciplinary file.

(b) An employee shall be given a copy of any disciplinary action document when it is placed in his or her agency disciplinary file.

(c) Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes, Oklahoma Open Records Act, shall govern access to disciplinary documents.

(1) An employee shall have a right to review disciplinary documents in his or her agency personnel record.

(2) The Civil Service Division, because of statutory responsibility, shall have a right of access to disciplinary documents.

(d) The Appointing Authority may specify procedures in the agency's progressive discipline plan for the review and removal of disciplinary documents from the employee's agency disciplinary record. Any such procedures shall be applied consistently and uniformly.

[OAR Docket #24-689; filed 6-27-24]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 20. ACQUISITION POLICY

[OAR Docket #24-654]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
300:20-1-1. Introduction to acquisition rules [AMENDED]
300:20-1-4. Responsibilities [AMENDED]
300:20-1-17. Advanced payments [REVOKED]
AUTHORITY:
Grand River Dam Authority; 82 O.S. 2019 Section 861A(B)(1), 82 O.S. 2019 Section 863.2(B)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 17, 2023
COMMENT PERIOD:
December 17, 2023 through January 17, 2024
PUBLIC HEARING:
January 18, 2024
ADOPTION:
February 14, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 15, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:

August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Language concerning Title 61 of the Oklahoma Statutes has been stricken since GRDA is exempt from this provision. Language has also been stricken concerning advanced payments. A general clarification and a correction are proposed.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

300:20-1-1. Introduction to acquisition rules [AMENDED]
(a) **General.** These rules explain and facilitate understanding of the Authority's functions related to acquisitions.
(b) **Application of the rules.** These rules are expressly designed to implement the Board's policy and state law. Procedures will conform to changes in rule or law and when necessary, procedures will be modified to refine the acquisition process. These rules shall apply to all GRDA acquisitions except where noted otherwise herein. ~~These rules do not apply to repairs, construction, or improvements to GRDA facilities or land that are governed by Title 61 of the Oklahoma Statutes.~~
~~(c) **Repairs, construction, or improvements to GRDA facilities and land.** For purchases for repair, construction or improvements to GRDA facilities or land that are governed by the provisions of Title 61 of the Oklahoma Statutes, GRDA will utilize forms and processes comparable to those prescribed by the Office of Management and Enterprise Services ("OMES") Construction and Properties Division. Where the provisions of Title 61 and the rules promulgated thereunder refer to the "Construction and Properties Division" the GRDA Central Purchasing Unit shall perform the duties of the OMES Construction and Properties Division for GRDA purchases when GRDA is allowed under Title 61 to perform such processes or assume such responsibilities. Where the provisions of Title 61 or related administrative rules applicable thereto refer to the "Construction and Properties Division Administrator" or "Administrator" the employee designated by the GRDA Chief Financial Officer shall assume such responsibilities, in instances where the Construction and Properties Division has delegated such authority to state agencies or GRDA.~~
~~(d)~~(c) **Exempt from competitive bidding processes.** Acquisitions of professional services as defined in Section 803 of Title 18 or acquisitions pursuant to the Oklahoma State Interlocal Cooperation Act, as well as power capacity, energy, transmission and ancillary services, insurance, banking, consulting services, government relations or business expense acquisitions described in Section 300:20-1-15(c), employee training, conference registration, employment services, or utility acquisitions (including services, equipment, and materials related to the supply or provision of electrical power and energy) are exempt from the competitive bidding processes described herein. Similarly, the acquisition of coal, natural gas, or other energy resources may be confidential or may require special acquisition processes. Therefore the selection of vendors for these products or services may deviate from the guidelines set forth herein. Acquisitions for financial services, underwriting, or other bond issuance services may require special acquisition processes that will be coordinated with the State Bond Advisor's office or the Board of Director's Audit, Finance, Budget and Policy Committee.
~~(e)~~(d) **Definitions.**

(1) **Acquisition.** The process of obtaining items, products, materials, supplies, services (including construction), and equipment by purchase, lease-purchase, lease with option to purchase or rental pursuant to the GRDA Acquisition Policy and Procedures and applicable State laws and directives.
(2) **Acquisition approval or signature authority.** The approval delegated by the Board of Directors or Chief Executive Officer for a GRDA employee to approve a purchase order or resulting payment thereof.
(3) **Bid.** The cost proposal submitted by a vendor in response to a request or solicitation from the GRDA for a project described in plans and/or specifications provided by GRDA.
(4) **Board of directors.** The rule-making authority and governing body of the Grand River Dam Authority as defined by 82 O.S. § 863.2.
(5) **Central purchasing unit.** The specialist unit within the GRDA Finance Department that is responsible for supervising and managing the acquisitions of materials, supplies, and services that are used by the Authority and for administering acquisition policies, rules, and procedures.
(6) **Emergency acquisition.** An acquisition made without following normal acquisition procedures in order to obtain goods or services to meet an urgent and unexpected requirement. An "Emergency" shall be identified as: an event that consists of one or more of the following:
(A) Correction of an immediate hazardous condition which affects the safety of personnel or the public health;
(B) Prevention of immediate damage to property or the reduction in reliability of electric generating equipment;
(C) Avoidance of purchase of alternative power to replace otherwise generated power;
(D) Maintenance of the efficient and orderly completion of work-in-progress;
(E) Correction of an immediate regulatory compliance deficiency;
(F) To obtain needed items when market conditions (e.g. natural disaster, terrorist act, etc.) limit the product or service availability, or when vendors may not be able to quote firm prices as would be possible under normal market conditions;
(G) To prevent or minimize the serious disruption of services to customers;
(H) To keep facilities operating, to ensure continuous transmission service, or when a Board meeting has been cancelled and thus it is necessary to avoid disruption of the acquisition process when a bid may expire prior to the next regularly scheduled Board meeting;
(I) Emergency acquisitions made pursuant to Title 61 of the Oklahoma Statutes.
(7) **Chief executive officer.** The GRDA employee who has oversight and managerial responsibility over all GRDA functions and is selected by the Board of Directors of the Grand River Dam Authority as authorized by 82 O.S. § 864.A.2.
(8) **GRDA or authority.** The Grand River Dam Authority, a governmental agency of the State of Oklahoma, as defined by 82 § ~~816~~861 et seq.
(9) **Low Dollar Acquisition.** An acquisition for goods or services that does not exceed the competitive bid dollar threshold as determined by the Chief Executive Officer.
(10) **Procedures.** Procedures are the prescribed means of complying with the applicable statutes and rules. Procedures provide GRDA personnel with the guidelines and, where appropriate, specific action sequences to ensure uniformity, compliance and control of all policy-related activities.
(11) **Solicitation.** An invitation for bids, a request for proposal, telephone calls, or any document or method used to obtain bids or proposals for the purpose of entering into a contract.

300:20-1-4. Responsibilities [AMENDED]
(a) The Board of Directors is responsible for promulgating comprehensive Acquisition Rules, and for approving or delegating approval of acquisitions.
(b) The Chief Executive Officer shall have authority to approve acquisitions as may be delegated by the Board of Directors.
(c) Subject to the approval of the Board of Directors, the Chief Executive Officer may delegate acquisition approval to other employees of the Authority and determine the dollar threshold for acquisitions that must be competitively bid.
(d) The Central Purchasing Unit has the responsibility for obligating the Authority and for making the final determination of source of supply, ultimate quantities acquired, delivery schedule, price, and commercial terms. These decisions will be made in conjunction with other departments as appropriate.

(e) The Central Purchasing Unit is to serve as the exclusive channel through which all requests regarding prices and products are handled. ~~This Unit and no other shall conduct all communications with suppliers involving prices or quotations.~~ Close communication and coordination between the Central Purchasing Unit and the department requesting supplies must occur. The Chief Executive Officer is responsible for determining the dollar threshold for those acquisitions that may be competitively bid by departments or units of the Authority outside of the Central Purchasing Unit. Subsections (d) and (e) do not apply to emergency acquisitions and low-dollar acquisitions or acquisitions competitively bid by departments, units, or employees other than the Central Purchasing Unit.
(f) The Authority shall maintain a uniform set of procedures and forms to service the competitive bid process in accordance with the dollar thresholds determined by the Chief Executive Officer, the process for non-competitive acquisitions (sole source, sole brand, State Use, etc.), and other acquisition matters, including, but not limited to, evaluation, award, change orders, contract administration, or disputes. Central Purchasing Unit personnel and any other designated department, unit, or personnel are responsible for obtaining bids on all material or services covered under these rules as described herein or the internal uniform procedures.
(g) The Central Purchasing Unit with the approval of the Chief Executive Officer may develop, test, utilize, or implement new or alternative acquisition procedures and practices that hold potential for making the Authority's acquisition process more effective and efficient or to be consistent with industry practices. Examples of such acquisition procedures and practices may include, but not be limited to, contract negotiations, reverse auctioning, electronic commerce for online solicitations, notifications, and award. If such practices substantially vary with any procedures herein, the Chief Executive Officer will notify the Board of such variances on the monthly Acquisition report provided to the Board.

300:20-1-17. Advanced payments [REVOKED]

~~GRDA generally shall not make advanced payment unless such is reviewed by legal counsel or approved by the Chief Executive Officer, or designee. This review and approval shall include guidance included in the OMES Procedures Manual, applicable laws, or experience with the applicable vendor.~~

[OAR Docket #24-654; filed 6-25-24]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 35. LAKE RULES

[OAR Docket #24-655]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Definitions, Purpose and Application
300:35-1-1. Definitions [AMENDED]
300:35-1-5. GRDA ~~police and compliance division~~Police Department [AMENDED]
Subchapter 3. General Provisions
300:35-3-9. Fishing and hunting [AMENDED]
Subchapter 7. Vessels
300:35-7-11. Penalties [AMENDED]
Subchapter 9. Sanctioned Events
300:35-9-3. Public and environmental safety [AMENDED]
Subchapter 11. Permits for Wharves, Landings, Buoys, Breakwaters and Docking Facilities
300:35-11-8. Removal and cancellation for failure to comply [AMENDED]
300:35-11-11. Expiration of permit [AMENDED]
Subchapter 17. Raw Water Permits
300:35-17-1. Definition [AMENDED]
300:35-17-2. Permit required [AMENDED]
Subchapter 23. Four-Wheel Vehicles, Off-Road Vehicles and All Terrain Vehicles
300:35-23-10. Penalty [AMENDED]
Subchapter 27. Vegetation Management Plan
300:35-27-7. Penalties [AMENDED]
AUTHORITY:

Grand River Dam Authority; 82 O.S. 2019 Section 861A(B)(1), 82 O.S. 2019 Section 863.2(B)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 16, 2023
COMMENT PERIOD:
December 16, 2023 through January 16, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
February 14, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 15, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The U.S. Army Corps of Engineers was removed from the definition of GRDA land or property as it no longer possesses any flowage easements on GRDA land. A definition was added for Wildlife Management Area describing four designated public hunting areas in Ottawa County, Oklahoma. Hunters shall follow all state and federal rules and regulations when hunting by watercraft. Domestic and household usage of GRDA water shall be allowed only after an annual permit has been issued and all other uses require a written contract with GRDA. Additionally, minor clarifications have been made.
CONTACT PERSON:
Tamara Jahnke, Assistant General Counsel, (918) 610-9686, tamara.jahnke@grda.com

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. DEFINITIONS, PURPOSE AND APPLICATION

300:35-1-1. Definitions [AMENDED]

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

"Authority" or **"GRDA"** means the Grand River Dam Authority.

"Board" means the Board of Directors for the Grand River Dam Authority.

"CEO" means the Chief Executive Officer of the Grand River Dam Authority.

"Flowage Easement" means the perpetual right of one party to overflow, flood, and submerge the lands subject to a flowage easement, reserving unto the fee owner such rights and privileges as may be enjoyed without interference with the rights granted in the flowage easement.

"GRDA land" or **"GRDA property"** or **"lands of GRDA"** means the land owned by GRDA. The location and boundaries of GRDA land is determined by a legal description (generally described by metes and bounds). A survey is necessary to determine the boundary of GRDA land. A particular elevation does not determine the boundary of GRDA land. Additionally, GRDA ~~and/or the U.S. Army Corps of Engineers~~ may have flowage easements over land.

"Habitable Structure" or **"Dock-o-miniums"** means structures used as living quarters constructed in conjunction with new or existing docks, piers, and floats. These structures generally resemble cabins and/or homes, placed on floating structures such as covered or enclosed docks, over boathouses and other similar structures where a building is or may be occupied by people overnight or for extended periods. Generally, these structures may contain water supply and/or waste disposal facilities such as sinks, showers, toilets, kitchen facilities, food preparation areas, etc.

"Neosho Bottoms" means all GRDA lands owned in Ottawa County along the Neosho River that lie West of U.S. Highway 69 not used in the delivery and transmission of electricity.

"Normal Idle Speed" means the vessel is in the forward gear with no additional throttle applied.

"Paddleboard" means a board or surfboard propelled through the water by an occupant by arms or paddle while lying, kneeling or standing on the board.

"Restricted Areas" means any area designated by GRDA where the public is prohibited from engaging in certain activities due to safety concerns or because the activity interferes with the business of GRDA.

"Rollover Protection System" or **"ROPS"** means a system or structure which can withstand the weight of the vehicle and is intended to protect a vehicle and passengers from being crushed.

"Shoreline Management Plan" or **"SMP"** means the rules relating to management of the shoreline as approved by the Federal Energy Regulatory Commission.

"Wake" means the track of waves left by a vessel or other object moving through the water and such waves are greater than the natural waves in the immediate area of the vessel or are cresting and showing white water or may cause injury to any person or property. However, a "no wake zone" is not violated when a vessel is safely proceeding with engine(s) engaged at normal idle speed.

"Water Jet Pack Unit" means the system propelling a person in the air by water and includes any vessel/PWC used to propel the person into the air. This system may also be known as a jetlev, aquaboard, aquaflyer, or flyboard.

"Waters of GRDA" means and refers to the waters of the Grand River and its tributaries, including, but not limited to, Grand Lake O' the Cherokees, Lake Hudson, and the W.R. Holway Reservoir. This Chapter 35 does not apply to the Illinois River in Oklahoma.

"Wildlife Management Area" or **"WMA"** means four designated areas established for public hunting on GRDA land in Ottawa County. Conner's Bridge and Todd Lake hunting areas are located along the Neosho River. West Spring River and Mallard Point hunting areas are located along the Spring River.

300:35-1-5. GRDA ~~police and compliance division~~Police Department [AMENDED]

(a) GRDA has created a Police Department ~~and a Compliance Division~~ for the purpose of enforcing these Rules on the waters and land of GRDA.

(b) The ~~members~~officers of GRDA's Police Department ~~and Compliance Division~~ are hereby declared to be the enforcement officers for GRDA. The enforcement officers for GRDA may enforce GRDA rules and regulations and the provisions of Sections 861 *et seq.* of Title 82 of the Oklahoma Statutes. The GRDA Police officers may also enforce those rules and regulations as may be issued pursuant to the provisions of Section 4200 *et seq.* of Title 63 of the Oklahoma Statutes, and all violations of criminal laws occurring within the boundaries of the counties where real property owned or leased by GRDA is located. The GRDA Police officers shall have the power of peace officers during the performance of their duties, except in the serving and execution of civil process.

(c) The GRDA Police officers shall, in the event of emergency, assist in the rescue of any person who may be in danger and shall assist in the saving of any property that is in danger of being lost or damaged. They may require the operator of any vessel operating on the waters of the lakes in any manner which is not in compliance with these Rules, or any applicable state law, to immediately remove said vessel from the lake until compliance has been had.

(d) The GRDA Police officers will enforce the state and federal laws related to the proper registration of vessels on GRDA waters.

(e) GRDA's Police officers may cooperate with federal, state and local enforcement officers in the enforcement of all federal and state laws upon the waters, lands and properties of GRDA or any other location within their jurisdiction.

SUBCHAPTER 3. GENERAL PROVISIONS

300:35-3-9. Fishing and hunting [AMENDED]

(a) Fishing or hunting within ~~restricted areas~~Restricted Areas will not be permitted.
(b) Fishing or hunting will not be permitted within two hundred (200) feet of the tailraces below the dams.
(c) Fishing or hunting, except commercial bait operators, will not be permitted at such other points on or about the lakes where such use will unduly interfere with navigation or proper conduct of the business of GRDA or endanger the public.
(d) Fishing and hunting in the Neosho Bottoms will only be allowed when properly permitted by GRDA. All permitted individuals shall have a proper hunting license in accordance with Oklahoma law and shall only use shotguns, primitive firearms, or proper archery equipment. No rifles shall be allowed within the Neosho Bottoms. Additionally removal of trees or shrubs of any kind from GRDA land shall not be allowed for use as ground blinds.
(e) No hunting shall be allowed on GRDA lands used in the generation, delivery or transmission of electricity.
(f) Hunters shall follow all state and federal rules and regulations when hunting by watercraft.

SUBCHAPTER 7. VESSELS

300:35-7-11. Penalties [AMENDED]

(a) GRDA Police officers may verbally order any person, firm, partnership, corporation, or any other entity that is violating any provision found in Title 63 or Title 21 of the Oklahoma Statutes or in any GRDA rules to immediately exit the waters and/or lands of GRDA. Failure to obey the verbal order may result in the GRDA Police officers enforcing the provisions of 63 O.S. 2001, § 4221 which provides that such failure to comply will constitute a misdemeanor punishable by a fine not to exceed Two Hundred Fifty Dollars ($250.00).
(b) Additionally, any such person or entity, after notice and an opportunity to be heard as provided in ~~Subchapter 21 herein~~Chapter 45 of this Title, may be banned from the waters and/or lands of GRDA for a period of time up to, and including, ninety (90) days.

SUBCHAPTER 9. SANCTIONED EVENTS

300:35-9-3. Public and environmental safety [AMENDED]

(a) GRDA Police officers shall require that any sanctioned event be held in a safe manner and under safe environmental conditions.
(b) Any vessel operating in an unsafe manner, or without due regard to other vessels, water skiers, swimmers, sanctioned events, restrictive markers or buoys, existing wind or weather conditions, waves, or wakes, may be immediately removed from the waters of GRDA by GRDA Police officers.
(c) GRDA may require that any sanctioned event conform to specific environmental requirements for the purpose of protecting fish, wildlife, or habitat. Such requirements shall be specified on the sanctioned event permit. Any sponsor of a sanctioned event, or any participant in such sanctioned event, which fails to follow the environmental requirements may be immediately removed from the waters of GRDA by GRDA Police officers.
(d) In addition to the penalties specified herein, any person violating this rule may be subject to criminal sanctions as provided by law and any other penalties as provided in 300:35-7-11.

SUBCHAPTER 11. PERMITS FOR WHARVES, LANDINGS, BUOYS, BREAKWATERS AND DOCKING FACILITIES

300:35-11-8. Removal and cancellation for failure to comply [AMENDED]

(a) GRDA may if any structure, private or commercial, is (i) not installed in accordance with the plans and specifications approved by GRDA, (ii) fails to meet current minimum standards adopted by GRDA, (iii) not kept in a good state of repair, (iv) has not been inspected by an Oklahoma licensed electrical contractor as provided herein, (v) does not have a permit in the name of the current owner, or (vi) has delinquent fees assessed against it, GRDA, after notice and opportunity to be heard in accordance with ~~Subchapter 21 herein~~Chapter 45 of this Title, shall have the right to remove or

cause to be removed from GRDA's waters and lands such structure and/or cancel any license or permit in the event the owner fails to remedy the violation after being notified by GRDA of the violation.
(b) Any loose, abandoned, or unpermitted structure located on GRDA land or water may be removed by GRDA and the owner shall be responsible for any expense incurred by GRDA.
(c) In the event GRDA removes a dock, wharf, boat house, breakwater, buoy, rail-system, tram system or any other structure, private or commercial, the owner of same shall be required to pay all past due fees and costs of such removal and may be required to pay all costs related to the repair and reclamation of GRDA lands and waters associated with the removal. Any expenses which remain unpaid in excess of 45 days shall accrue interest at the rate of 10% per annum.

300:35-11-11. Expiration of permit [AMENDED]
(a) The construction, modification, installation, and final GRDA approval of private docks, landings, anchorages, boat houses, breakwaters, ~~buoys,~~ rail-systems, and tram-systems must be completed within two (2) years from the date the permission to construct or modify is issued by GRDA.
(b) The construction, modification, installation, and final GRDA approval of commercial docks, landings, anchorages, boat houses, breakwaters, ~~buoys,~~ rail-systems, and tram-systems must be completed within seven (7) years from either the date the permission to construct or modify is issued by GRDA or the date the Federal Energy Regulatory Commission issues an order approving the action, whichever occurs later.
(c) Prior to the expiration of the permission to construct or modify, the GRDA Board of Directors may extend the time in which such structure must be completed upon request of the permit holder.
(d) If the permit expires, the permit is null and void.

SUBCHAPTER 17. RAW WATER PERMITS

300:35-17-1. Definition [AMENDED]
(a) "Domestic and household use" shall mean water that is taken by the permittee in and upon his premises for all usual and ordinary household uses and purposes which shall include sprinkling and watering lawns and gardens of not to exceed three (3) acres. The term "irrigation" shall mean water that is taken ~~by the permittee~~ in and upon the premises ~~covered by the permit~~ for the purpose of irrigating lands, crops and vegetables growing in and upon said lands by ditches, canals, sprinkling systems and such other usual and ordinary means of irrigation.
(b) Water rights granted under these Rules and Regulations shall not be construed as the supplying or furnishing of water for domestic purposes to the public; such permits only grant the permittee the right to take and use the water as provided by these Rules and Regulations.
(c) Commercial and Irrigation use of water requires a written contract with GRDA.

300:35-17-2. Permit required [AMENDED]
The taking of and using waters of GRDA, including water from Ft. Gibson reservoir for domestic and household use ~~or irrigation use~~ shall be allowed only after an annual permit has been issued by the Grand River Dam Authority. All other uses require a written contract with GRDA.

SUBCHAPTER 23. FOUR-WHEEL VEHICLES, OFF-ROAD VEHICLES AND ALL TERRAIN VEHICLES

300:35-23-10. Penalty [AMENDED]
(a) GRDA Police ~~and Compliance~~ Officers may verbally order any person that is violating these rules to immediately exit the lands of GRDA.
(b) Additionally, any person, after notice and opportunity to be heard in accordance with ~~Subchapter 21 herein~~Chapter 45 of this Title, may be banned from the lands of GRDA for a period of time up to, and including, ninety (90) days.

SUBCHAPTER 27. VEGETATION MANAGEMENT PLAN

300:35-27-7. Penalties [AMENDED]
After notice and an opportunity to be heard in ~~according~~accordance with ~~Subchapter 21 herein~~Chapter 45 of this Title, a permit issued pursuant to these rules may be suspended or revoked by GRDA upon a finding that the permit holder has violated any rule provided for herein. Additionally, the holder of the permit may be assessed costs which may include expenses necessary for the reclamation, restoration, and/or clean-up of GRDA land and waters and any other fee, penalty

or fine as authorized by statute.

[OAR Docket #24-655; filed 6-25-24]

TITLE 300. GRAND RIVER DAM AUTHORITY
CHAPTER 45. ADMINISTRATION OF RULES AND HEARINGS

[OAR Docket #24-656]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
300:45-1-3. Hearings for violation of rules [AMENDED]
300:45-1-6. Board Action [AMENDED]
300:45-1-8. Noncompliance, violations and penalties [AMENDED]
AUTHORITY:
Grand River Dam Authority; 82 O.S. 2019 Section 861A(B)(1), 82 O.S. 2019 Section 863.2(B)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 16, 2023
COMMENT PERIOD:
December 16, 2023 through January 16, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
February 14, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 15, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:

General clarifications were made including language to confirm this Chapter applies to licenses issued by GRDA, and to spell out GRDA's authority to revoke permits and licenses after the Respondent has been given notice and an opportunity for a hearing.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

300:45-1-3. Hearings for violation of rules [AMENDED]

(a) **Notice of Violation.** A Notice of Violation may be issued by the Chief Executive Officer or his designee after the discovery of a violation of any rule. A Notice of Violation shall be signed by the GRDA employee issuing it and shall state:

(1) The name of the person or entity responsible for the violation (the "Respondent");
(2) A description of the nature of the violation;
(3) The remedial action and/or the relief required, which may include revocation of the permit or license or the imposition of a fee, penalty or fine as authorized by statute and/or the correction of any deficiency;
(4) A reasonable time to comply with the remedial action and/or the relief required;
(5) That the Respondent may submit a response to the Notice of Violation, how and where a response may be submitted, and the deadline to submit a response; and
(6) That, in connection with the submission of a response to the Notice of Violation, the Respondent may request a hearing before the Chief Executive Officer or his designee to challenge the Notice of Violation.

(b) **Service of the Notice of Violation.** At the election of the GRDA, a Notice of Violation shall be served upon the Respondent in the same manner as a civil summons is served. In the event the violation relates to a dock that is not permitted in the current owner's name or the permit owner is deceased and no probate is pending, service can be made by posting the Notice on the dock or walkway to the dock.

(c) **Permits or Licenses.** In matters involving permits or licenses issued by the GRDA, the Respondent shall be the person in whose name the permit or license is currently listed or the current owner of the dock if ascertainable. The Respondent shall be the only person entitled to notice under this subsection.

(d) **Response to Notice of Violation.** In the event that the Respondent submits a response to the Notice of Violation, the response shall include a detailed statement of the reasons that Respondent objects to the Notice of Violation and all arguments that the Respondent desires to make at hearing, if requested. A Respondent who fails to submit a response to the Notice of Violation in the time and manner stated in the Notice of Violation may be deemed by the GRDA Chief Executive Officer or his designee to have waived the right to object or present a defense to the Notice of Violation.

(e) **Hearing.** A Respondent who requests a hearing must also submit a response to the Notice of Violation in order to provide an address and telephone number that the GRDA may use to communicate with the Respondent concerning the hearing and final order. Upon timely receipt of a request for a hearing, the Chief Executive Officer or his designee shall set the matter for hearing and shall notify the Respondent in writing of the hearing at least ten (10) calendar days before the hearing. Notice of the hearing shall be delivered to the Respondent using the address specified in the response to the Notice of Violation and shall state the date, time and location of the hearing.

300:45-1-6. Board Action [AMENDED]

After the Hearing Officer has sent his recommendation to the GRDA Board of Directors as provided in ~~300:35-21-5~~300:45-1-5 or after the time to remedy the violation has passed in the event the Respondent does not request a hearing, the Board of Directors shall adopt, amend, or reject any findings or conclusions presented to the Board.

300:45-1-8. Noncompliance, violations and penalties [AMENDED]

After notice and an opportunity for hearing as provided herein, GRDA may revoke any permit or license issued under its rules and regulations upon a determination that such permit or license should be revoked. Any person, firm or corporation that fails to comply with, or violates any Rule promulgated by GRDA shall~~, after notice and an opportunity for hearing as provided for herein,~~ be required to reimburse GRDA for any direct cost and overhead incurred as a result of such failure to comply or violation. Such costs may include, but are not limited to, the costs associated with the repair, restoration and reclamation of the lands and waters of GRDA and any storage costs for the Respondent's personal property and any other fee, penalty or fine as authorized by statute. Additionally, GRDA may ~~cancel any permit or license which~~

~~has been issued in connection with said boat, structure or facility and may~~ remove or cause ~~it~~ to be removed any boat, structure or facility from GRDA's lands and waters at the owner's expense.

[OAR Docket #24-656; filed 6-25-24]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 220. BUNK BED RULES [REVOKED]

[OAR Docket #24-696]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [REVOKED]
310:220-1-1. Purpose [REVOKED]
310:220-1-2. Definitions [REVOKED]
310:220-1-3. Construction [REVOKED]
Subchapter 3. Labeling [REVOKED]
310:220-3-1. Labeling requirements [REVOKED]
AUTHORITY:
Commissioner of the Oklahoma State Department of Health; 63 O.S. § 1-104
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
September 12, 2023
COMMENT PERIOD:
October 16, 2023 through November 17, 2023
PUBLIC HEARING:
November 18, 2023
ADOPTION:
December 13, 2023
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
December 13, 2023
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A

AVAILABILITY:
N/A
GIST/ANALYSIS:
Chapter 220 is being revoked. HB2788 amended 63 O.S. § 1-1002.2 to remove the requirement that the Commissioner promulgate rules establishing requirements for retailers of bunk beds. Retailers of bunk beds remain subject to the safety requirements imposed by 63 O.S. §§ 1002.2 et seq.
CONTACT PERSON:
Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, 405-426-8563. AudreyT@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:220-1-1. Purpose [REVOKED]
~~The rules in this Chapter implement the Whitney Starks Act, 63 O.S. Supp. 1998, Section 1-1002.1 et seq.~~

310:220-1-2. Definitions [REVOKED]
~~The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:~~
~~**"Bed end structure"** means the upright unit at the head and foot of the bed to which side rails attach.~~
~~**"Bunk bed"** means any bed in which the underside of the foundation is over thirty-five (35) inches from the floor.~~
~~**"Department"** means the Oklahoma State Department of Health.~~
~~**"Foundation"** means the base or support for a mattress.~~
~~**"Guardrail"** means a rail attached to each long side or ends of the bed.~~
~~**"Retailer"** means a person who sells articles directly to the final consumer.~~

310:220-1-3. Construction [REVOKED]
~~(a) No retailer shall sell or resell a bunk bed in which the distance between the lower edge of the guard rail and the upper edge of the bed frame or the lower edge of the bed end structure and the upper edge of the bed frame exceeds three and one-half (3½) inches. A guardrail system that terminates before reaching the bed end structure is acceptable providing there are no more than 15 inches (380 mm) between either end of the guardrail and the bed end structures.~~
~~(b) The foundation support system, in the event cross-members are used, shall have at least two (2) cross-members. If more than two (2) cross-members are used, they shall be spaced so that the distance between adjacent cross-members or between cross-members and the bed end structures is less than three and one-half (3½) inches or more than nine (9) inches.~~

SUBCHAPTER 3. LABELING [REVOKED]

310:220-3-1. Labeling requirements [REVOKED]
~~(a) Each bunk bed offered for sale by a retailer shall be posted with an indelible warning which includes the name, city, and state of the manufacturer or distributor.~~
~~(b) The letters of the word "WARNING" shall be in uppercase boldface type not less than three-sixteenth (3/16) inch or five (5) millimeters high and shall be the first line of the label. The letters in "DO NOT REMOVE THIS LABEL" shall be in uppercase boldface type not less than one-eighth (1/8) inch or three (3) millimeters high and shall be the last line in the label.~~
~~(c) The remainder of the text of the label shall be no less than one-eighth (1/8) inch or three (3) millimeters high with the words "to help prevent" in boldface type. The language contained in the warnings shall read: To help prevent serious or fatal injuries from entrapment or falls:~~
~~(1) Never allow a child under six (6) years on the upper bunk;~~
~~(2) Use only a mattress which is not more than 3½ inches shorter than the bed length and not more than 3½ inches narrower than the bed width on the upper bunk;~~

~~(3) Ensure the thickness of the mattress does not exceed (list thickness here) and the mattress is at least five (5) inches below the upper edge of the guardrails;~~
~~(4) Use guardrails on both sides of the upper bunk;~~
~~(5) Prohibit horseplay on or under the bed(s);~~
~~(6) Prohibit more than one (1) person on the upper bunk; and~~
~~(7) Use a ladder for entering and leaving the upper bunk.~~

~~(d) For mattress and foundations the label shall specify a mattress and foundation size for the bunk bed that is no less than three and one half (3½) inches smaller than the length or width of the interior bed structure. The thickness of the mattress and foundation specified shall be at least five (5) inches below the upper edge of the guardrails and the upper edge of the bed end structures. The language contained in the warnings shall read: To help prevent serious or fatal injuries from entrapment or falls:~~

~~(1) Never allow a child under six (6) years on the upper bunk;~~
~~(2) Use only a mattress which is not more than 3½ inches shorter than the bed length and not more than 3½ inches narrower than the bed width;~~
~~(3) Ensure thickness of the mattress and foundation combined is at least five (5) inches below the upper edge of the guardrails;~~
~~(4) Use guardrails on both sides of the upper bunk;~~
~~(5) Prohibit horseplay on or under the bed(s);~~
~~(6) Prohibit more than one (1) person on the upper bunk; and~~
~~(7) Use a ladder for entering and leaving the upper bunk.~~

~~(e) The label shall be attached permanently to a bed end structure of the upper bunk in a location that cannot be covered by the bedding but that may be covered by the placement of a pillow.~~

[OAR Docket #24-696; filed 6-27-24]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 285. LODGING ESTABLISHMENTS

[OAR Docket #24-698]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
310:285-1-2. Definitions [AMENDED]
Subchapter 3. Establishment Maintenance
310:285-3-1. Establishment maintenance [AMENDED]
AUTHORITY:
Commissioner of the Oklahoma State Department of Health; 63 O.S. § 1-104, 1-1201et seq.; HB1635
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
September 12, 2023
COMMENT PERIOD:
October 16, 2023 through November 18, 2023
PUBLIC HEARING:
November 17, 2023
ADOPTION:
December 13, 2023
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
December 13, 2023
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Chapter 285 is being amended to conform the rules to statutory amendments made to 63 O.S. § 1-1201et seq. by HB1635. Lodging establishment, as now defined in OAC 310:285-1-2, requires five (5) rooms available for transient guests, instead of the four (4) rooms for transient guests previously required for an establishment to be within the definition. OAC 310:285-3-1(a), as amended, removes the regulation of hotel buildings and their appurtenances from the authority of the State Commissioner of Health.
CONTACT PERSON:
Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, 405-426-8563. AudreyT@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

310:285-1-2. Definitions [AMENDED]

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

"Bedding" means mattresses, sleeper sofas, mattress covers, mattress pads, bedskirts, quilts, blankets, sheets, pillows, pillow cases, comforters and spreads.

"Cabin" means a single structure where sleeping accommodations are furnished to the transient, traveling, or vacationing public. A group of less than four (4) cabins, at the same location and under the same ownership shall be exempt from this chapter.

"Certified applicator" means any individual who is certified under 7 U.S.C., Section 136(e)(1) or by the Oklahoma State Department of Agriculture Food and Forestry as authorized to use or supervise the use of any pesticide that is classified for restricted use. Any applicator who holds or applies registered pesticides or uses dilutions of registered pesticides consistent with the product labeling only to provide a service of controlling pests without delivering any unapplied pesticide to any person so served is not deemed to be a seller or distributor of pesticides.

"Clean" means free of visible stains, dirt, dust, sludge, foam, slime (including algae and fungi), mold, rust, scale, mineral deposits, accumulation of impurities, food debris, and other foreign material.

"Commissioner" means the State Commissioner of Health and authorized representatives or designated agents thereof.

"Continental breakfast" means a morning meal consisting of no more than the food items described in OAC 310:285-5-6(a) and this Chapter, or an authorized agent thereof.

"Department" means the Oklahoma State Department of Health and a health department designated in writing by the State Commissioner of Health to perform official duties or other acts authorized under 63 O.S. § 1- 101 et seq.

"Employee" means the permit holder, individuals having supervisory or management duties and any other person working in a lodging establishment whose duties include the cleaning of rooms, toilets, linens, utensils, or any part of the building or the rendering of any service to guests.

"EPA-registered" means any chemical or substances, including sanitizers, sterilizers, biocides, or other substances which must be registered with the United States Environmental Protection Agency under 7 U.S.C. § 136 et seq. prior to their distribution and use by industry and consumers.

"Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Guest room" means any room in a lodging establishment which is offered for occupancy on a daily basis or for a period of less than thirty (30) days.

"Housekeeper's cart" means a vehicle which is used to transport cleaning materials, room supplies, clean and soiled linens and refuse.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on the number of potential injuries, and the nature, severity, and duration of the anticipated injury.

"Infestation" means the presence of vermin, which includes but is not limited to bed bugs, cockroaches, or rodents, which is indicated by observation of living or dead vermin or vermin carapace, eggs or egg casings, or the typical brownish or blood spotting on linens, mattresses, or furniture, or the presence of vermin droppings.

"Kitchenette" means a room or area within a single guest room of a lodging establishment that has the following amenities:

(A) A kitchen sink supplied with hot and cold potable water;
(B) Properly vented cooking facilities such as a microwave oven, convection oven, or stove;
(C) An easily cleanable, non-porous counter for food preparation;
(D) A refrigerator capable of holding 41°F or less; and
(E) A cupboard or other kitchen cabinetry.

"Law" means state statutes and rules.

"Lodging establishment" means and includes any hotel, motel, tourist court, apartment house, rooming house or other place where sleeping accommodations are furnished or offered for pay for transient guests, if ~~four (4)~~five (5) or more rooms are available therein for transient guests.

"Person" means any individual, partnership, corporation, association, or other legal entity.

"Person in charge" means the individual present in a lodging establishment who is the supervisor of the lodging establishment at the time of inspection. If no individual is the supervisor, then any employee present is the person in charge.

"Physical facilities" means the structure and interior surfaces of a lodging establishment including accessories such as soap and towel dispensers and attachments such as light fixtures and heating or air conditioning system vents.

"Potable water" means water which is safe for human consumption in that it is free from impurities in amounts sufficient to cause disease or harmful physiological effects and, for the purpose of this definition, approved by the Department of Environmental Quality prior to serving to the general public.

"Premises" means the physical establishment, its contents, and the contiguous land or property under the control of the license holder which operated as a single business.

"Putrescible" means capable of being decomposed by microorganisms with sufficient rapidity as to cause nuisances from odors or gases.

"Ready-to-eat food" means a food product that is intended to be consumed without any further preparation or cooking processes.

"Regulatory authority" means a representative, such as an onsite inspector, of the Department.

"Restricted use pesticide" means a pesticide product that contains the active ingredients specified in 40 CFR 152.175, pesticides classified for restricted use, and pesticides limited to use by or under the direct supervision of a certified applicator.

"Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens to a safe level as determined by applicable state and federal requirements on utensils and equipment.

"Sewage" means liquid waste containing animal or vegetable matter in suspension or solution and may include liquids containing chemicals in solution.

"Single-service articles" means cups, containers, lids, closures, knives, forks, spoons, stirrers, paddles, straws, wrapping materials, and similar utensils intended to be discarded after one use.

"Substantial compliance" means a level of compliance with the requirements of participation such that any identified deficiencies pose no greater risk to resident health or safety than the potential for causing minimal harm.

"Time/Temperature Control for Safety Food" means a food that requires time/temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.

(A) Time/Temperature Control for Safety Food includes: An animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixtures of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth or toxin formation; and

(B) Time/Temperature Control for Safety Food does not include:

(i) An air-cooled hard-boiled egg with shell intact, or a shell egg that is not hard-boiled, but has been pasteurized to destroy all viable Salmonellae;

(ii) A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution;

(iii) A food that because of its aW or pH values, is designated as a non-TCS food.

"Utensil" means any multi-use or single service implement used in the storage, preparation, transportation, or service of ice, beverage, or other food.

"Variance" means a written document issued by the Department that authorizes a modification or waiver of one or more requirements of this Chapter, if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

SUBCHAPTER 3. ESTABLISHMENT MAINTENANCE

310:285-3-1. Establishment maintenance [AMENDED]

(a) All buildings and appurtenances used in the operation of any lodging establishment, excluding the buildings and appurtenances of hotels as defined in 63 O.S. § 1-1201(A), shall be maintained as necessary to safeguard the health, comfort and safety of guests accommodated therein. Hotels remain subject to the Department's rules governing *cleanliness and bactericidal treatment of equipment and utensils; cleanliness and hygiene of personnel; toilet facilities; disposal of wastes; water supply; and any other items deemed necessary to safeguard the health, comfort and safety of guests accommodated therein.* [63 O.S. § 1-1201(A)]

(b) The floors in areas used for washing and sanitizing multiuse utensils, laundry areas, kitchenettes, and in areas in restrooms, which are next to the tub, shower, or toilet, shall be constructed of smooth, durable, nonabsorbent, and easily cleanable material.

(c) All floors, walls, ceilings, equipment, and other appurtenances in hallways, common areas, and foodservice areas shall be maintained clean and in good repair.

(d) Studs, joists, rafters, and beams shall not be left exposed in restrooms, laundry rooms, or kitchenettes. If left exposed in other areas, these structural members shall be suitably finished and be kept clean and in good repair.

[OAR Docket #24-698; filed 6-27-24]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 515. COMMUNICABLE DISEASE AND INJURY REPORTING

[OAR Docket #24-703]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. Disease and Injury Reporting

310:515-1-8. Organisms/specimens to be sent to the Public Health Laboratory [AMENDED]

AUTHORITY:

Commissioner of the Oklahoma State Department of Health; 63 O.S. §§ 1-104, 1-106, 1-502, and 1-503
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 30, 2023
COMMENT PERIOD:
December 1, 2023 through January 4, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 4, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 4, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
This change adds the requirement for COVID-19 specimens to be submitted to the OSDH Public Health Laboratory for variant testing.
CONTACT PERSON:
Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, 405-426-8563. AudreyT@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. DISEASE AND INJURY REPORTING

310:515-1-8. Organisms/specimens to be sent to the Public Health Laboratory [AMENDED]
(a) Pure bacterial isolates of the following organisms shall be sent to the OSDH Public Health Laboratory for additional characterization, typing or confirmation within two (2) working days (Monday through Friday, state holidays excepted) of final identification or diagnosis.
(1) *Bacillus anthracis*.
(2) *Brucella* spp.

(3) Carbapenem-resistant *Enterobacteriaceae*.
(4) Capbapenem-resistant *Pseudomonas aeruginosa.*
(5) Carbapenum-resistant *Acinetobacter spp*.
(6) *E. coli 0157*, *0157:H7*, or a Shiga toxin producing *E. oli*.
(7) *Francisella tularensis*.
(8) *Haemophilus influenza* (sterile site).
(9) *Listeria monocytogenes* (sterile site).
(10) *Mycobacterium tuberculosis*.
(11) *Neisseria meningitides* (sterile site).
(12) *Salmonella spp*.
(13) *Vibrionaceae* family (*Vibrio* spp. *Grimontia* spp., *Photobacterium* spp. And other genera in the family).
(14) Yersinia spp.

(b) Following consultation with an OSDH epidemiologist, clinical specimens from suspected cases of Botulism must be sent to the OSDH Public Health Laboratory for testing.
(c) When *Plasmodium* spp. Is suspected by a healthcare provider, a Giemsa-stained (or other suitable stain) thin and thick, peripheral blood smear prepared from the EDTA should be submitted in addition to the EDTA purple top blood tube.
(d) ~~Labratories~~Laboratories unable to perform reflex culture to isolate/recover the following bacterial pathogens detected by CIDT assays shall submit positive CIDT stool samples in Cary Blair or modified Cary Blair transport media to the OSDH Public Health Laboratory within two (2) working days (Monday through Friday, state holidays excepted) of final CIDT result.

(1) E. coli 0157, 0157:H7, or a Shiga toxin-producing E.coli.
(2) *Salmonella spp.*
(3) *Vibrio spp.*
(4) *Yersinia spp.*

(e) Hospitals and laboratories must send, at a minimum, 10% of their weekly positive specimens for SARS-CoV-2 (COVID-19) – PCR or culture positive specimens.

[OAR Docket #24-703; filed 6-27-24]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 517. NOVEL CORONAVIRUS REGULATIONS [REVOKED]

[OAR Docket #24-704]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [REVOKED]
310:517-1-1. Purpose [REVOKED]
Subchapter 2. Novel Coronavirus Reports [REVOKED]
310:517-2-1. Specimens to be sent to the Public Health Laboratory [REVOKED]
310:517-2-2. Emergency reporting requirements [REVOKED]
Subchapter 3. Hospital Licensed Bed Capacity [REVOKED]
310:517-3-1. Procedures to expand or modify licensed bed capacity [REVOKED]
AUTHORITY:
Commissioner of the Oklahoma State Department of Health; 63 O.S. §§ 1-104, 1-106, 1-502, and 1-503
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 30, 2024
COMMENT PERIOD:
December 1, 2023 through January 4, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 4, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

January 4, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
This change adds the requirement for COVID-19 specimens to be submitted to the OSDH Public Health Laboratory for variant testing.
CONTACT PERSON:
Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, 405-426-8563. AudreyT@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:517-1-1. Purpose [REVOKED]

~~The purpose of this chapter is to collect data determined to be critical to assess the likelihood of, and to prevent, a future public health emergency related to novel coronavirus and to establish the specific data reporting requirements and the procedures for submission of the data to the Oklahoma State Department of Health. The rules in this Chapter implement in part, the communicable disease reporting laws in Title 63 O.S. §§ 1-104 and 1-106, Commissioner of Health, Title 63 O.S. § 1-502, Prevention and Control of Disease and Title 63 O.S. § 1-503, Reports of Disease. The rules set forth the conditions under which hospitals are allowed to expand or modify bed capacity.~~

SUBCHAPTER 2. NOVEL CORONAVIRUS REPORTS [REVOKED]

310:517-2-1. Specimens to be sent to the Public Health Laboratory [REVOKED]

~~Hospitals and laboratories must send, at a minimum, 10% of their weekly positive novel coronavirus specimens to the OSDH Public Health Laboratory for variant testing. The collection, packaging, and shipping of the positive novel coronavirus specimen must be in accordance with OSDH Public Health Laboratory guidelines.~~

310:517-2-2. Emergency reporting requirements [REVOKED]

~~(a) Every practicing physician and clinical laboratory that is utilizing, or has utilized, an FDA-approved test, including an emergency use authorization test, for human diagnostic purposes of novel coronavirus, shall submit reports to OSDH in a manner, format, and frequency prescribed by the State Commissioner of Health of all test results, both positive and negative.~~

~~(b) Hospitals and Physician Clinics operating in the State of Oklahoma shall submit the following critical data to OSDH in a manner, format, and frequency prescribed by the State Commissioner of Health:~~

~~(1) The number of patients in the hospital receiving treatment for novel coronavirus;~~

~~(2) The number of patients receiving treatment for novel coronavirus who are currently admitted to the ICU; and~~

~~(3) The novel coronavirus vaccination status of patients in the hospital receiving treatment for novel coronavirus.~~

~~(c) All reports required by this section 310:5-1-10 must be submitted electronically to OSDH in digital form that is created, distributed and retrievable by a computer system. Electronic records generated according to these requirements shall be in the manner and format prescribed by the State Commissioner of Health.~~

~~(d) This rule shall be active and remain in effect when there is a federal or state declaration of emergency related to novel coronavirus or until the State Commissioner of Health determines the reporting is no longer needed.~~

SUBCHAPTER 3. HOSPITAL LICENSED BED CAPACITY [REVOKED]

310:517-3-1. Procedures to expand or modify licensed bed capacity [REVOKED]

~~(a) A hospital's licensed bed capacity can be expanded and/or modified, if it submits a letter to the Department that is signed by an authorized hospital authority, notarized and includes the following statements:~~

~~(1) the hospital attests that its emergency preparedness plan includes the expanded and/ or modified bed plan and is approved by its governing body;~~

~~(2) the hospital attests the location of the modified and/or expanded beds. The location must include:~~

~~(A) the building name and floor number if the modified and/or expanded beds are on the hospital's campus; or~~

~~(B) the physical address if the modified and/or expanded beds are not on the hospital's campus.~~

~~(3) if the hospital is also participating in Centers for Medicare & Medicaid Services' (CMS) Hospital Without Walls program (program), then the hospital attests:~~

~~(A) that its governing body has approved of its participation in the program;~~

~~(B) that it is participating in accordance with CMS requirements; and~~

~~(C) that the portions of the program that it is participating in is not in conflict with state statute.~~

~~(b) Licensed capacity refers to the total number and type of beds a hospital stated in the Hospital Designation of Licensed Beds Form (Form 929) filed with the Department.~~

~~(c) This rule is limited to hospitals licensed by the Commissioner of Health.~~

~~(d) This rule does not affect a hospital's obligation to comply with requirements of other regulatory bodies.~~

~~(e) This rule is effective until the Commissioner of Health determines that the need for hospitals to exceed and/or modify their licensed bed capacity is no longer needed.~~

[OAR Docket #24-704; filed 6-27-24]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 526. DENTAL SERVICES

[OAR Docket #24-699]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Oklahoma Dental Loan Repayment Program
310:526-3-4. Procedures for administering the Program [AMENDED]
AUTHORITY:
Commissioner of the Oklahoma State Department of Health; 63 O.S. § 1-104, 1-1201et seq.; HB1635
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

September 12, 2023
COMMENT PERIOD:
October 16, 2023 through November 18, 2023
PUBLIC HEARING:
November 17, 2023
ADOPTION:
December 13, 2023
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
December 13, 2023
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Chapter 285 is being amended to conform the rules to statutory amendments made to 63 O.S. § 1-1201et seq. by HB1635. Lodging establishment, as now defined in OAC 310:285-1-2, requires five (5) rooms available for transient guests, instead of the four (4) rooms for transient guests previously required for an establishment to be within the definition. OAC 310:285-3-1(a), as amended, removes the regulation of hotel buildings and their appurtenances from the authority of the State Commissioner of Health.
CONTACT PERSON:
Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, 405-426-8563. AudreyT@health.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. OKLAHOMA DENTAL LOAN REPAYMENT PROGRAM

310:526-3-4. Procedures for administering the Program [AMENDED]

The Program shall develop dental loan repayment procedures as may be necessary to carry out the administration of the Program. The Program shall delineate the following procedures:

(1) **Dental Health Professional Shortage Areas (DHPSA).** Dental health professional shortage areas for Oklahoma shall be established by the Commissioner using the following criteria.

(A) The percentage of Medicaid enrollees receiving dental services each year.
(B) The ratio of the number of Medicaid enrollees ~~under the age of 21~~ per Medicaid dental provider.
(C) The ratio of the number of Oklahoma residents in the general population ~~under age 21~~ per Oklahoma licensed general practice or pediatric dentist.

(2) **Applications.** All interested new dental school graduates shall file an application with the Department. This application can be submitted at any time during the year. Applications are available in the Dental Service office of the Oklahoma State Department of Health, in person or online.

(3) **Approval by the Department**. Applications are reviewed by the Advisory Committee. Following this review, the Advisory Committee forwards their recommendations to the Department. Applications are approved or declined as determined by the Department.

(4) **Renewal of loan repayment contracts.** The original loan repayment contract may be renewed for up to a total participation in the Program of five (5) years, contingent upon funding from the Legislature and continued approval of the Department based upon the dentist's performance and recommendations of the Advisory Committee if requested.

(5) **Advisory Committee.** The Department will appoint and convene an Advisory Committee to assist in the dental loan repayment process. The Advisory Committee includes five (5) members with representation from the Oklahoma Dental Association, the University of Oklahoma College of Dentistry, the Oklahoma Health Care Authority, the Oklahoma Board of Dentistry, and the Oklahoma ~~oral health coalition~~ Oral Health Coalition. The Advisory Committee is responsible for reviewing the eligible applicants, as determined by the Department, and making recommendations to the Department. The Department makes the final selection of Program participants.

[OAR Docket #24-699; filed 6-27-24]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 599. ZOONOTIC DISEASE CONTROL

[OAR Docket #24-705]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
310:599-1-2. Definitions [AMENDED]
310:599-1-5. Verifiable rabies vaccination [NEW]
Subchapter 3. Rabies Control
310:599-3-1. Management of dogs, cats, or ferrets that bite a person [AMENDED]
310:599-3-2. Supervising veterinarian's responsibility [AMENDED]
310:599-3-4. Management of other animals that bite a human [AMENDED]
310:599-3-6. Unvaccinated domestic animals exposed to a rabid animal [AMENDED]
310:599-3-8. Record of recognized rabies vaccination [AMENDED]
310:599-3-9.1. Required immunization of dogs, cats, and ferrets [AMENDED]
AUTHORITY:
Commissioner of the Oklahoma State Department of Health; 63 O.S. §§ 1-104, 1-106, 1-502, 1-503
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 30, 2023
COMMENT PERIOD:
December 1, 2023 through January 5, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 4, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 4, 2024
LEGISLATIVE APPROVAL:
N/A

LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
These amendments and additions clarify language to better support county health departments, local law enforcement, animal control, veterinarians and OSDH when making decisions regarding quarantine and/or euthanasia of animals exposed to rabies or in animals involved in a bite to a human. These changes also clarify alternatives for animal owners after exposure to rabies. This amendment defines "booster vaccine" and adds a new section to define "verifiable rabies vaccine" for dogs, cats, and ferrets. The amendment removes specific language referencing the Public Health Laboratory Rabies contact information, and references only a designated rabies laboratory testing facility. This amendment clarifies the circumstances in which prospective serologic monitoring may occur in animals exposed to rabies. The amendment updates time frames veterinarians must keep record of rabies vaccination in accordance with other states and vaccinations. It also clarifies and creates consistent wording with time frames.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

310:599-1-2. Definitions [AMENDED]

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

"10 day" means a minimum of 240 hours.

"30 day" means a minimum of 720 hours.

"Animal" means any warm-blooded mammal.

"Booster Vaccination" means for the purposes of rabies control, a booster vaccine is a United States Department of Agriculture (USDA)-licensed rabies vaccine for a designated species that follows a primary dose of a USDA-licensed rabies vaccine given by or under the supervision of a licensed veterinarian.

"Cat" means any *Felis catus*.

"Currently vaccinated" means properly immunized by or under the supervision of a licensed veterinarian with an antirabies vaccine licensed and approved by the ~~United States Department of Agriculture~~USDA for use in that animal species, or meeting conditions specified in OAC 310:599-3-8. Vaccine must have been given at appropriate time interval(s) for the age of the animal and type of vaccine administered. Within 28 days after initial vaccination, a peak rabies antibody titer is expected, and the animal is considered immunized. Regardless of the age of the animal at initial vaccination, a booster vaccination should be administered one year later, then at appropriate time intervals based on the type of vaccine administered.

"Department" means the Oklahoma State Department of Health.

"Department designee" means an employee of the Oklahoma State Department of Health, or a county health department, who is acting within their scope of rabies control authority designated through the Commissioner of Health.

"Dog" means any *Canis familiaris*, excluding hybrids.

"Domestic animal" means a companion animal including dogs, cats, and ferrets; an equine animal; or a livestock animal.

"Euthanize" means the humane killing of an animal generally performed by a veterinarian, or personnel at an animal control facility under the indirect supervision of a veterinarian.

"Exposure to rabies" means a bite or introduction of saliva or neural tissue into open cuts in skin, or onto mucous membranes by an animal confirmed or suspected of being infected with rabies.

"Ferret" means any Mustela putorius furo.

"First party ownership" means a situation where the owner of a biting animal is directly related to the bite victim, that is parent-child, sibling-sibling, grandparent-child; or when the legal residence of the animal owner and the bite victim are the same.

"Home quarantine" means confinement and observation of an animal allowed at the animal owner's property for a specified time period, where one of the following acceptable methods of confinement for a dog are used: (a) complete indoor housing, (b) caging or kenneling in an enclosure with a securely latched door, or (c) yard confinement with perimeter fencing that the dog is unable to climb over or dig under. Acceptable methods of confinement for a cat or ferret are: (a) complete indoor housing, or (b) caging in an enclosure that prevents escape. The animal's needs for ambient temperature control, water, nutrition, elimination, and space to comfortably stand up and lie down must be adequately provided by the selected confinement method. Should the animal exhibit neurologic signs, die, or disappear during the specified period, an Oklahoma licensed veterinarian and the Department shall be immediately notified.

"Hybrid" means an offspring of wild animals crossbred to domestic dogs or cats; considered to be wild animals in the enforcement of OAC 310:599.

"Quarantine" means physical confinement of an animal during a specified time period when the animal is monitored for the development of disease. During this time period, the animal is prevented from having contact with other animals, and human contact is limited to as few caretakers as possible.

"Rabies" means an acute disease of humans and warm-blooded mammals caused by the rabies virus (genus Lyssavirus) that affects the central nervous system and is almost always fatal.

"Recognized animal control facility" means any facility operating for the purpose of stray animal control and/or animal welfare that is under contract or letter of agreement which identifies a licensed veterinarian responsible for animal quarantines.

"Recognized zoological park" means any member of the American Association of Zoological Parks.

"Severe injury" means any physical injury that results in broken bones or lacerations requiring multiple sutures or cosmetic surgery. [4 O.S. Supp. 1991, § 44 (3)]

"Wild animal" means an animal considered as wildlife; any animal not normally adapted to live in intimate association with humans nor raised for consumption by humans.

"Zoonotic disease" means a disease that is transmissible from animals to humans under natural conditions.

310:599-1-5. Verifiable rabies vaccination [NEW]

The following are methods of confirmation for verifiable rabies vaccination. A verifiable rabies vaccination means that the custodian has one of the following to confirm that the animal(s) in question has been administered a rabies vaccination as specified in OAC 310:599-3-8.

(1) Provide a NASPHV Form 51 or equivalent issued for each animal rabies vaccine by the veterinarian responsible for administration of the vaccine and which contains the following information:

(A) Animal custodian's name, address and telephone number;

(B) Animal identification: species, sex (including neutered status, if applicable), approximate age, size (pounds), predominate breed and colors;

(C) Vaccine used-product name, manufacturer, and serial number;

(D) Date vaccinated;
(E) Revaccination due date;
(F) Rabies tag number (if a tag is issued);
(G) Veterinarian's signature, signature stamp or computerized signature, including address, contact number, and license number.
(H)The custodian shall retain each rabies vaccination certificate until the animal receives a subsequent booster and shall produce the certificate upon request by any public health official, animal control, law enforcement, or peace officer when the request is part of the requester's official duty.

(2) Animal custodian provides direct contact information for the licensed veterinarian administering the rabies vaccination including, but not limited to, veterinarian's telephone contact information. The licensed veterinarian must be able to provide the NASPHV Form 51 or equivalent for each animal in question.

SUBCHAPTER 3. RABIES CONTROL

310:599-3-1. Management of dogs, cats, or ferrets that bite a person [AMENDED]

(a) Any person or entity owning, harboring, or keeping a dog, cat or ferret which in the preceding ten (10) days has bitten any person, shall upon receipt of written notice by the local animal control authority or Department designee, place such animal in quarantine under the supervision of a licensed veterinarian for a period of ten (10) days from the date the person was bitten. The impoundment and observation of the dog, cat, or ferret shall be conducted at the veterinarian's facility, or a recognized animal control facility. Unvaccinated animals shall be vaccinated against rabies on the final day of the ten (10) day observation period prior to discharge from the veterinarian's supervision.

(b) Exceptions to this rule include the following circumstances:

(1) Dogs, cats, or ferrets involved in a first party ownership may be allowed to be placed in a home quarantine for a ten (10) day period immediately following the bite.

(2) Dogs, cats, and ferrets meeting the criteria of currently vaccinated against rabies, and not inflicting a severe injury, shall be placed in a home quarantine until the end of a ten (10) day period from the bite. In some instances, a certification of animal health obtained after examination by a licensed veterinarian on the tenth day may be required by the Department or local animal control authority.

(3) Animals in service to the blind or hearing-impaired, and search and rescue dogs or other animals used for police enforcement duties shall be exempt from the quarantine when a bite exposure occurs and ~~proper~~verifiable rabies vaccination is ~~record of immunization against rabies is~~ presented. A certification of animal health obtained after examination by a licensed veterinarian at the end of ten (10) days may be required by the Department.

(4) Stray or unwanted dogs, cats, or ferrets that have bitten any person may either be quarantined for ten (10) days at a veterinary facility or a recognized animal control facility; or immediately euthanized and the brain, including brainstem, ~~tissue~~ submitted to the Oklahoma State Department of Health designated rabies testing facility~~Oklahoma State Department of Health Public Health Laboratory~~ for rabies testing. If the animal is quarantined and not euthanized, ~~Upon~~upon successful completion of the ten (10) day period a stray animal may be placed for adoption at the discretion of the animal control authority.

(5) Dogs, cats, and ferrets that bite a veterinarian or staff member under their supervision during a routine examination or elective procedure may be considered eligible for home quarantine if the bite victim and owner agree the animal will be examined by a licensed veterinarian at the end of the ten (10) day period from the bite to confirm the animal's health status.

(6) In rare instances, other good and valid health reasons of the owner or animal may be considered for justification to home quarantine (e.g., a bitch with a litter of very young puppies, an animal with a contagious disease, etc.). Approval for home quarantine will be determined by the Department or its designee.

310:599-3-2. Supervising veterinarian's responsibility [AMENDED]

It shall be the duty of the veterinarian in whose supervision the dog, cat, or ferret is placed to keep the animal isolated and secured in a separate cage or kennel and under observation for any symptoms of rabies. The veterinarian shall report immediately to the Department designee any changes occurring in the condition of the dog, cat, or ferret. In the event the animal being observed dies, or develops rabies-like symptoms within the specified period of confinement, the head of the animal shall be removed immediately to preserve the brain, including brainstem, for rabies testing and packed in a shipping container in accordance with instructions published on the rabies laboratory form and submitted to the Oklahoma State Department of Health designated rabies testing facility. ~~ODH Form 460, and sent to the Oklahoma State~~

~~Department of Health Public Health Laboratory, 1000 N.E. Tenth Street, Oklahoma City, Oklahoma 73117-1299, for rabies testing.~~

310:599-3-4. Management of other animals that bite a human [AMENDED]

(a) The final decision for animal destruction, quarantine, or other disposition of any animal other than a dog, cat, or ferret that bites a person, or otherwise potentially exposes a person to rabies shall be determined through the Department. The decision will consider, but not be limited to:

(1) The epidemiology and risk of rabies in the species of animal in question;
(2) Possible prior exposure to a rabies vector;
(3) Behavior of the animal at the time of the bite;
(4) Prior rabies vaccinations; and
(5) Other circumstances that may exist.

(b) In some situations, the Department will consider the initiative and willingness of the individual so exposed to submit to postexposure anti-rabies immunization after being adequately informed of all potential risks.

(c) Any biting animal determined to be at significant risk for the transmission of rabies shall upon written order by the Commissioner of Health, or a specifically designated representative, be humanely killed and the brain, including brainstem, ~~tissue~~ submitted to the Oklahoma State Department of Health designated rabies testing facility. ~~State Department of Health Laboratory for rabies testing~~.

(d) If the animal is a not known to be a rabies reservoir in Oklahoma, the ~~The~~ Department may order the quarantine of an animal, determined to be at very low risk for the transmission of rabies, for a thirty (30) day observation period as an alternate method to euthanasia and testing.

310:599-3-6. Unvaccinated domestic animals exposed to a rabid animal [AMENDED]

(a) Any dog, cat, or ferret that has never been vaccinated against rabies and is exposed to a rabid animal shall be:

(1) Euthanized immediately either by a veterinarian of the owner's choice, or the local animal control officer; or
(2) Placed in strict quarantine and observed for a period of four (4) months for dogs and cats or six (6) months for ferrets under the supervision of a licensed veterinarian, either at a veterinary facility or a recognized animal control facility. The exposed animal shall be immediately vaccinated against rabies upon entry into quarantine and then given booster vaccinations at the third and eighth week of the quarantine period. For animals ~~Animals~~ less than 16 weeks of age at the time of entry into rabies exposure quarantine, additional vaccinations may be necessary to ensure that the animal receives at least two vaccinations at or after the age prescribed by the USDA for the vaccine administered. ~~may be required to receive a booster vaccine in addition to the above protocol.~~

(b) Any dog or cat that is overdue for a booster vaccination, and has verifiable rabies vaccination ~~has~~ documentation of receiving a USDA-licensed rabies vaccine at least once previously by or under the supervision of a licensed veterinarian, shall be re-vaccinated and isolated, by leashing or confinement under the owner's supervision, for a period of at least 45 days from exposure date. Ferrets that are overdue for rabies booster vaccination shall be evaluated on a case-by-case basis by the Department, taking into consideration factors such as the severity of exposure, time elapsed since last vaccination, number of previous vaccinations, and current health status to determine the need for euthanasia or immediate booster vaccination and isolation for a period of at least 45 days from exposure date.

(c) Any dog or cat that is overdue for a booster vaccination and without appropriate verifiable rabies vaccination documentation of having received a USDA-licensed rabies vaccine at least once by or under the supervision of a licensed veterinarian shall be:

(1) Treated as unvaccinated by the Department and either euthanized as described in (a) of this section; or
(2) Immediately given a booster vaccination and placed in strict quarantine for a period of four (4) months under the supervision of a licensed veterinarian and follow the vaccine scheduled described in (a) this section; or
(3) Alternatively, prior to rabies booster vaccination, the attending veterinarian may request guidance from the state public health authority in the possible use of prospective serologic monitoring. Such monitoring would entail collecting paired blood samples to document prior vaccination by providing evidence of an anamnestic response to booster vaccination. If an adequate anamnestic response is documented the animal can be considered to be overdue for booster vaccination and observed for forty-five (45) days from the time from exposure. If there is inadequate evidence of an anamnestic response the animal is considered unvaccinated and should be placed in strict quarantine and follow 310:599-3-6 for unvaccinated domestic animals.

(A) Dogs or cats eligible for serologic confirmation must remain in quarantine at the attending veterinarian's facility until results of the prospective serologic monitoring protocol have been verified and approved by the state public health authority.

(B) Dogs or cats eligible for serologic confirmation should receive a booster vaccination in accordance with the prospective serologic monitoring protocol. ~~Prior to booster vaccination, the owner may work with the licensed veterinarian to conduct prospective serologic monitoring. Serologic monitoring shall include collecting paired blood samples to document prior vaccination by providing evidence of an anamnestic response to booster vaccination. If an adequate anamnestic response is documented, the animal can be considered to be overdue for booster vaccination as described in (b) of this section. If there is inadequate anamnestic response, the animal is considered to have never been vaccinated and managed as described in (a) of this section.~~

(d) Any livestock or equine animal which is not currently vaccinated and is exposed to a rabid animal will be managed according to the most current Compendium of Animal Rabies Control published by the National Association of State Public Health Veterinarians, Inc. and any State Department of Agriculture guidelines that may apply.

310:599-3-8. Record of recognized rabies vaccination [AMENDED]

(a) Record of vaccination by a veterinarian must be provided to determine the animal to be currently vaccinated against rabies. Veterinarians shall be required to keep a record of a rabies vaccination for a minimum period of ~~three (3)~~five (5) years. This record must include: name, address, and telephone number of the owner of the animal; date of vaccination; animal identification; brand name of vaccine used, vaccine expiration date, and producer of vaccine.

(b) Three year immunity conferred by the second or subsequent boosters with a three year rabies vaccine will be recognized in the enforcement of OAC 310:599.

310:599-3-9.1. Required immunization of dogs, cats, and ferrets [AMENDED]

(a) The owner or custodian of a domestic dog, cat, or ferret shall cause the animal to be vaccinated against rabies by the time the animal is four (4) months of age and at regular intervals thereafter according to the label directions of an approved rabies vaccine for use in that species, or as prescribed by ordinances or rules adopted by a municipality within whose jurisdiction the animal owner resides.

(b) A veterinarian who administers or supervises the rabies vaccination of a dog, cat, or ferret shall issue to the animal's owner/custodian a vaccination certificate that meets the minimum standards set forth in ~~OAC 310:599-3-7~~OAC 310:599-1-5. Animal identification including, but not limited to species, gender, age, and predominant breed and coloring must be indicated on the vaccination certificate.

[OAR Docket #24-705; filed 6-27-24]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 638. DRUG AND ALCOHOL TESTING

[OAR Docket #24-700]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Drug Screen Testing Facilities
310:638-5-5. Internal review and certification of test results [AMENDED]
Subchapter 7. Alcohol Testing Facilities
310:638-7-9. Internal review and certification of results [AMENDED]
AUTHORITY:
Commissioner of the Oklahoma State Department of Health; 63 O.S. § 1-104, 1-1201et seq.; HB1635
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
September 12, 2023
COMMENT PERIOD:
October 16, 2023 through November 17, 2023
PUBLIC HEARING:
November 17, 2023
ADOPTION:
December 13, 2023

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
December 13, 2023
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Chapter 285 is being amended to conform the rules to statutory amendments made to 63 O.S. § 1-1201et seq. by HB1635. Lodging establishment, as now defined in OAC 310:285-1-2, requires five (5) rooms available for transient guests, instead of the four (4) rooms for transient guests previously required for an establishment to be within the definition. OAC 310:285-3-1(a), as amended, removes the regulation of hotel buildings and their appurtenances from the authority of the State Commissioner of Health.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 5. DRUG SCREEN TESTING FACILITIES

310:638-5-5. Internal review and certification of test results [AMENDED]
(a) The drug screen testing facility shall report positive test results to the employer's Review Officer within an average of five (5) working days after receipt of the specimen by the drug screen testing facility. Before any test result is reported (the results of initial tests, confirmatory tests, or quality control data), it shall be reviewed and the test certified as an accurate report by the responsible individual. The report shall identify the drugs/metabolites tested for, whether positive or negative, and the cutoff for each, the specimen number assigned by the employer, and the drug screen testing facility specimen identification number.
(b) *A testing facility shall report single-use test results that meet the standard to be sent to the laboratory for confirmation testing to an employer's review officer, or a designee of the employer's review officer, as soon as the results for the single-use test become available or the next working day. The final conclusion of the testing, which shall include the results of the single-use tests, confirmatory tests, or quality control data, shall be reviewed and the test certified as an accurate report by the responsible individual.*[Title 40 O.S. § 559.1]

~~(b)~~(c) The drug screen testing facility shall report as negative all specimens which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported as positive for a specific drug.
~~(c)~~(d) The Review Officer may request from the drug screen testing facility and the drug screen testing facility shall provide quantitation of test results. The Review Officer shall not disclose quantitation of test results to the employer but shall report only whether the test was positive or negative.
~~(d)~~(e) The drug screen testing facility may transmit results to the Review Officer by electronic means, i.e., teleprinters, facsimile, or computer, in a manner designed to ensure confidentiality of the information. Results shall not be provided verbally by telephone. The drug screen testing facility shall ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.
~~(e)~~(f) The drug screen testing facility shall send to the Review Officer the positive drug test results, which shall be signed by the individual responsible for the day-to-day management of the drug screen testing facility or the individual responsible for attesting to the validity of the test reports.
~~(f)~~(g) All results reported to the employer shall be by the same source.

SUBCHAPTER 7. ALCOHOL TESTING FACILITIES

310:638-7-9. Internal review and certification of results [AMENDED]
(a) The testing facility shall report positive test results to the employer's Review Officer within an average of five (5) working days after receipt of the specimen by the testing facility. Before any test result is reported, including the results of initial tests, confirmatory tests, or quality control data, it shall be reviewed and the test certified as an accurate report by the responsible individual. The report shall quantify the concentration of alcohol (ethanol), whether positive or negative, the cutoff, the specimen number assigned by the employer, and the testing facility specimen identification number.
(b) *A testing facility shall report single-use test results that meet the standard to be sent to the laboratory for confirmation testing to an employer's review officer, or a designee of the employer's review officer, as soon as the results for the single-use test become available or the next working day. The final conclusion of the testing, which shall include the results of the single-use tests, confirmatory tests, or quality control data, shall be reviewed and the test certified as an accurate report by the responsible individual.*[Title 40 O.S. § 559.1]
~~(b)~~(c) The testing facility shall report as negative all specimens which are negative on the initial test or negative on the confirmatory test. Only specimens confirmed positive shall be reported as positive.
~~(c)~~(d) The Review Officer shall not disclose quantitation of test results to the employer but shall report only whether the test was positive or negative.
~~(d)~~(e) The testing facility may transmit results to the Review Officer by electronic means, i.e., teleprinters, facsimile, or computer, in a manner designed to ensure confidentiality of the information. Results shall not be provided verbally by telephone. The testing facility shall ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system.
~~(e)~~(f) The testing facility shall send to the Review Officer positive alcohol test results, which shall be signed by the individual responsible for the day-to-day management of the testing facility or the individual responsible for attesting to the validity of the test reports.
~~(f)~~(g) All results reported to the employer shall be by the same source.

[OAR Docket #24-700; filed 6-27-24]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 642. EMERGENCY RESPONSE SYSTEMS STABILIZATION AND IMPROVEMENT REVOLVING FUND

[OAR Docket #24-706]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Scoring
310:642-5-1. OERSSIRF funding priority point system [AMENDED]
AUTHORITY:

Commissioner of the Oklahoma State Department of Health; 63 O.S. §§ 1-104, 1-106, 1-502, 1-503
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 30, 2023
COMMENT PERIOD:
December 1, 2023 through January 4, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 4, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 4, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
Subchapter 5. Scoring [REVOKED]
310:642-5-1 [REVOKED]
GUBERNATORIAL APPROVAL:
February 22, 2023
REGISTER PUBLICATION:
40 OK Reg 643
DOCKET NUMBER:
23-182
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Senate Joint Resolution (SJR) 22 revoked OAC 310:642-5-1(2) (H) and (I), which were part of the formula used to calculate awards granted under Chapter 642. References to the revoked subparagraphs (H) and (I) were inadvertently left in the immediately preceding subparagraph. The proposed language is an amendment to OAC 310:642-5-1(1), which removes the remaining references to (H) and (I) and conforms the section to the current descriptions.
CONTACT PERSON:
Audrey C. Talley, Agency Rule Liaison, Oklahoma State Department of Health, 123 Robert S. Kerr Avenue, Oklahoma City, OK 73102, 405-426-8563. AudreyT@health.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 5. SCORING

310:642-5-1. OERSSIRF funding priority point system [AMENDED]

Proposals shall be ranked based on the total number of points awarded by the Department consistent with this Chapter.

(1) The following formula shall be used to rank funding proposals: T Total Points (T) = S + M + D + H + E + AR + PM ~~+ PG + PE~~, where:

(A) ~~T = Total points~~
~~(B)~~ S = Statutory purposes
~~(C)~~(B) M = Multiple jurisdictions
~~(D)~~(C) D = Population density
~~(E)~~(D) H = Distance to the nearest level I or II trauma center
~~(F)~~(E) E = Number of project-area EMTs
~~(G)~~(F) AR = Amount of funding requested
~~(H)~~(G) PM = Project matching
~~(I) PG = Previous funding assistance~~
~~(J) PE = Previous funding evaluation~~

(2) Points may be awarded as described below:

(A) **Statutory purposes (S):** Points shall be awarded for each of the relevant statutory purposes of the proposal as follows:

(i) Funding assessment activities: 50 points
(ii) Stabilization and/or reorganization of at-risk emergency medical services: 100 points
(iii) Development of regional EMS: 50 points
(iv) Training for emergency medical directors: 50 points
(v) Access to training front line emergency medical services personnel: 100 points
(vi) Capital and equipment needs: 50 points

(B) **Multiple jurisdictions (M):** Points shall be awarded for projects addressing the EMS needs of multiple jurisdictions, as follows:

(i) Two cities or towns: 25 points
(ii) Three cities or towns: 50 points
(iii) County wide: 100 points
(iv) Multi-county: 150 points
(v) State wide: 200 points

(C) **Population density (D):** Points shall be awarded for projects encompassing areas of lowest per-mile population density as recorded by the United States Census Bureau, as follows:

(i) 5,000.0 to 8,968.1: 0 points
(ii) 1,000.0 to 4,999.9: 10 points
(iii) 200.0 to 999.9: 20 points
(iv) 79.6 to 199.9: 30 points
(v) 30.0 to 79.5: 40 points
(vi) 10.0 to 29.9: 50 points
(vii) Less than 10.0: 100 points

(D) **Distance to trauma center (H):** Points shall be awarded for project areas where the average distance between the furthest and closest points within the project area to a trauma center classified by the State of Oklahoma or the American College of Surgeons as level I or II, as follows:

(i) 0-25 miles: 0 points
(ii) 25-49 miles: 10 points
(iii) 50-74 miles: 20 points
(iv) 75-99 miles: 30 points
(v) 100-124 miles: 40 points
(vi) 125-149 miles: 50 points
(vii) 150 miles and over: 100 points

(E) **EMTs (E):** Points shall be awarded for proposals encompassing project areas with fewer resident licensed EMTs at any level of licensure as recorded by the Department as follows:

(i) 100 or more resident EMTs: 0 points
(ii) 50-99 resident EMTs: 20 points
(iii) 25-49 resident EMTs: 40 points
(iv) 0-24 resident EMTs: 60 points

(F) **Amount of funding requested (AR):** Points under this category for amount of funding requested are determined as follows:

(i) $400,001 to $500,000: -50 points

(ii) $300,001 to $400,000: -40 points
(iii) $200,001 to $300,000: -30 points
(iv) $100,001 to $200,000: -20 points
(v) $80,000 to $100,000: 10 points
(vi) $60,000 to $79,999: 20 points
(vii) $40,000 to $59,999: 30 points
(viii) $20,000 to $39,999: 50 points
(ix) Any AR greater than $500,000 shall be denied

(G) **Project matching (PM).** If the proposal proposes the use of matching funds, points shall be awarded consistent with the following formula:

(i) 90% of the requested funds: 90 points
(ii) 80% of the requested funds: 80 points
(iii) 70% of the requested funds: 70 points
(iv) 60% of the requested funds: 60 points
(v) 50% of the requested funds: 50 points
(vi) 40% of the requested funds: 40 points
(vii) 30% of the requested funds: 30 points
(viii) 20% of the requested funds: 20 points
(ix) 10% of the requested funds: 10 points

[OAR Docket #24-706; filed 6-27-24]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 667. HOSPITAL STANDARDS [AMENDED]

[OAR Docket #24-701]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 61. Rural Emergency Hospitals [NEW]
310:667-61-1. Purpose [NEW]
310:667-61-2. Definitions [NEW]
310:667-61-3. Licensure [NEW]
310:667-61-4. REH basic requirements [NEW]
310:667-61-5. Minimum operational requirements [NEW]
AUTHORITY:
Commissioner of the Oklahoma State Department of Health; 63 O.S. § 1-104, 1-1201et seq.; HB1635
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
September 12, 2023
COMMENT PERIOD:
October 16, 2023 through November 17, 2023
PUBLIC HEARING:
November 17, 2023
ADOPTION:
December 13, 2023
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
December 13, 2023
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:

June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
Subchapter 61. Rural Emergency Hospitals
310:667-61-1
310:667-61-2
310:667-61-3
310:667-61-4
310:667-61-5
GUBERNATORIAL APPROVAL:
February 22, 2023
REGISTER PUBLICATION:
40 OK Reg 650
DOCKET NUMBER:
23-181
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The proposed rules create a new category of licensure for rural emergency hospitals ("REH"). The REHs must be rural and are required to meet state and CMS regulations. The requirements include: a 24-hour limit on individual patient care; a transfer agreement with a level I or level II trauma center; licensure by OSDH; a provider agreement; and the hospital must implement all of the CMS conditions of participation.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 61. RURAL EMERGENCY HOSPITALS [NEW]

310:667-61-1. Purpose [NEW]

This Subchapter 61 creates a category of licensure to enable certain rural Oklahoma hospitals to receive federal healthcare reimbursements from Medicare and Medicaid programs, as rural emergency hospitals, pursuant to the Social Security Act § 1861(kkk), Title 42 U.S.C. § 1395x and 42 CFR Parts 485 and 489, to enable them to continue providing services to the rural communities they serve.

310:667-61-2. Definitions [NEW]

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

"CMS" means the Centers for Medicare & Medicaid Services, a part of the United States Department of Health and Human Services.

"Code of federal regulations" or **"CFR"** means the codification of the general and permanent rules published by the departments and agencies of the federal government.

"Conditions of participation" means certain CMS regulations setting minimum health and safety standards for healthcare organizations to meet to participate in federally funded healthcare programs, such as Medicare and Medicaid.

"Facility" means:

(A) *was a critical access hospital; or*
(B) *was a subsection (d) hospital (as defined in section 1395ww(d)(1)(B) of* Title 42 U.S.C.*) with not more than 50 beds located in a county (or equivalent unit of local government) in a rural area (as defined in section 1395ww(d)(2)(D) of* Title 42 U.S.C.*), or was a subsection (d) hospital (as so defined) with not more than 50 beds that was treated as being located in a rural area pursuant to section 1395ww(d)(8)(E) of* Title 42 U.S.C. [Title 42 U.S.C. 1395x]

"Rural emergency hospital" or **"REH"** means a facility, as defined above, that:

(A) *is enrolled under* Title 42 U.S. C. §1395cc(j), which relates to the enrollment process for providers of services and suppliers*, submits the additional information described in paragraph* 1395x(kkk)*(4)(A)* of Title 42 U.S.C., related to providing an action plan, describing any outpatient services offered and the proposed use of the additional facility payment to REHs*, for purposes of such enrollment, and makes the detailed transition plan described in clause (i) of such paragraph available to the public, in a form and manner determined appropriate by the* U.S. *Secretary* of Health & Human Services ("Secretary")*;*
(B) *does not provide any acute care inpatient services, other than those described in paragraph* Title 42 U. S. C. 1395x(kkk)*(6)(A)*, related a skilled nursing facility to furnish post-hospital extended care services;
(C) *has in effect a transfer agreement with a level I or level II trauma center;*
(D) *meets-*
(i) *licensure requirements as described in paragraph* Title 42 U.S.C. 1395x(kkk)*(5);*
(ii) *the requirements of a staffed emergency department as described in paragraph* Title 42 U.S.C. 1395x(kkk)*(1)(B);*
(iii) *such staff training and certification requirements as the Secretary may require;*
(iv) *conditions of participation applicable to-*
(I) *critical access hospitals, with respect to emergency services under section 485.618 of title 42, Code of Federal Regulations* ("CFR") *(or any successor regulation); and*
(II) *hospital emergency departments under this subchapter, as determined applicable by the Secretary;* [Title 42 U.S.C. 1395x(kkk)] and
(E) *means an entity that operates for the purpose of providing emergency department services, observation care, and other outpatient medical and health services specified by the Secretary in which the annual per patient average length of stay does not exceed 24 hours*. [42 CFR Part 485, § 485.502]

"Rural emergency hospital services" means *the following services furnished by a rural emergency hospital ... that do not exceed an annual per patient average of 24 hours in such rural emergency hospital:*
(A) *... Emergency department services and observation care; and*
(B) *... At the election of the rural emergency hospital, with respect to services furnished on an outpatient basis, other medical and health services as specified by the Secretary through rulemaking.* [Title 42 U.S.C. 1395x (kkk)(1)]

"Twenty-four hours" or "**24 hours"** means *the time calculation for determining the length of stay of a patient receiving REH services,* which *begins with the registration, check-in or triage of the patient (whichever occurs first) and ends with the discharge of the patient from the REH.* [42 CFR Part 485, §485.502]

"U.S.C." means the United States Code, a consolidation and codification by subject matter of the general and permanent laws of the United States.

310:667-61-3. Licensure [NEW]

(a) No person or entity shall operate a facility as a rural emergency hospital without first obtaining a license from the Department. The applicant for licensure must:
(1) be within the definition of facility in OAC 310:667-63-2;
(2) include an action plan for initiating rural emergency hospital services, including a detailed transition plan that lists the specific services that the facility will retain, modify, add and discontinue; and
(3) a description of services that the facility intends to provide on an outpatient basis.
(b) The applicant for REH licensure is subject to the licensure requirements set forth in OAC 310:667-1-3. All applicants receiving REH licensure are subject to the regulatory requirements specific to the type of facility in OAC 310:667.
(c) A licensed general hospital or critical access hospital that applies for and receives licensure as a rural emergency hospital and elects to operate as a rural emergency hospital will retain its original license as a general hospital or critical access hospital. The original license will remain inactive while the REH license is in effect.

310:667-61-4. REH basic requirements [NEW]

No person or entity shall be licensed as an REH, to provide rural emergency hospital services, unless:

(1) the facility meets the definition of a rural emergency hospital contained in OAC 310:667-63-2;

(2) the facility has in effect a provider agreement as defined in 42 CFR Part 489, §489.3; and

(3) the facility meets the CMS conditions of participation set forth in 42 CFR Part 485, §§ 485.508 through 485.641.

310:667-61-5. Minimum operational requirements [NEW]

No facility shall operate as a REH unless:

(1) The facility satisfies the emergency department requirements for a critical access hospital set forth in OAC 310:667-39-14;

(2) The facility satisfies the emergency department requirements for a REH as promulgated by CMS;

(3) The facility provides rural emergency hospital services;

(4) The facility has in effect a transfer agreement with a level I or level II trauma center that meets the requirements of OAC 310:667-59, Classification of Hospital Emergency Services;

(5) The facility complies with state and federal law, CMS staffing requirements and all CMS conditions of participation;

(6) The facility may not have inpatient beds, except that such hospital may have a unit that is a distinct part of such hospital and that is licensed as a skilled nursing facility to provide post-hospital extended care services; and

(7) The facility may own and operate an entity that provides ambulance services.

[OAR Docket #24-701; filed 6-27-24]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 670. CITY AND COUNTY DETENTION FACILITY STANDARDS

[OAR Docket #24-702]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
310:670-1-2. Definitions [AMENDED]
Subchapter 5. Standards for Detention Facilities
310:670-5-5. Classification and segregation [AMENDED]
310:670-5-11. Physical plant [AMENDED]
AUTHORITY:
Commissioner of the Oklahoma State Department of Health; 63 O.S. § 1-104
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
September 12, 2023
COMMENT PERIOD:
October 16, 2023 through November 17, 2023
PUBLIC HEARING:
November 17, 2023
ADOPTION:
December 13, 2023
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
December 13, 2023
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:

June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
310:670-1-2 was amended to reflect legislative changes which clarifies the definition of barrack-style. 310:670-5-5. Replaced dormitory-style for barrack-style as reflected in the recent legislative change. 310:670-5-11. Replaces dormitory-style for barrack-style as reflected in the recent legislative change and replaces medium-security to reflect wording in statute for minimum–security.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

310:670-1-2. Definitions [AMENDED]

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

"ACA" means American Correctional Association.

"Available" means that the subject individual is either on site or on the premises.

"Barrack-style" means *a single designated space within a city or county jail facility for the purpose of housing three or more inmates*.[57 O.S. § 57(F)]

"Bodily search" means any invasive examination by hand of an inmate's person or clothing. Bodily searches do not include "pat-downs."

"Central control" means the central point within the facility where security activities are monitored and controlled.

"Contraband" means anything not authorized to be in an inmate's possession.

"Dayroom" means space for activities that is situated immediately adjacent to the inmates' sleeping area and separated from the sleeping area by a wall.

"Department" means Oklahoma State Department of Health.

"Detention facility" means a facility that may hold a person for an indefinite period of time.

"Detention Officer" means a person whose training, education and/or experience specifically qualifies him or her to perform the duties indicated in the job description and the jail standards, or a person who holds a certification accorded pursuant to 70 O.S. Section 3311. The individual performing the duties must be trained in appropriate laws, codes, standards, policies and procedures.

"Direct contact with inmates" means contact between Detention Officers and inmates in inmate living areas.

"Direct supervision" means the Detention Officer is in direct contact with inmates and is in a position to constantly monitor behaviors and interact with inmates.

"Emergency care" means *medical or surgical care necessary to treat the sudden onset of a potentially life-or limb-threatening condition or symptom* [57 O.S. § 38.3(A)(1)].

"Facility administrator" means sheriff, police chief, city manager, private contractor or a designee thereof charged with maintaining and operating a lockup facility, or detention facility.

"Grievance" means a circumstance or action considered unjust.

"Holding facility" means a facility that shall hold *persons under arrest who are charged with a crime* no longer than twelve (12) hours [74 O.S. § 192(B)].

"Hot meal" means a measure of food served and eaten at one sitting prepared in accordance with and served at a palatable temperature range of 110° - 120° F. (43.3°- 48.8° C.).

"Indigent inmate" means an inmate who has a total receipt of or a balance of less than $15.00 from the first day through the last of the preceding month.

"Inmate" means any individual, whether in pretrial, sentenced or un-sentenced status who is confined in a detention facility.

"Juvenile" means a person who is subject solely to the jurisdiction of a juvenile court or who is subject to the provisions of Title 10A O.S. § 2-5-205 or 10A O.S. § 2-5-206 (relating to classification as a youthful offender as defined at 10A O.S. § 2-5-202).

"Last locked/secure door" means the last secure barrier between staff and the inmate.

"Life endangering situations" means a suicide attempt, or obvious serious injury or illness, which in the evaluation of the staff requires an immediate response.

"Life threatening" means a situation in which life saving measures are taken.

"Living area" means those areas of a facility utilized for the day-to-day housing and activities of inmates. These areas do not include reception and release areas and special use cells such as sobering, safety, and holding or staging cells normally located in receiving areas.

"Lockup facility" means a facility that may hold a person no longer than ten (10) days. It is usually operated by a town or city for the temporary detention of persons awaiting arraignment. Persons who need to be detained longer than ten (10) days shall be transferred to a detention facility.

"New construction" means a facility with final plans approved after January 1, 1992.

"Non-secure areas" means those areas where a youth or juvenile is in the custody of law enforcement and may not be able to leave or depart from the presence of law enforcement, yet the youth or juvenile is not detained in a facility which limits movement.

"On site" means a Detention Officer being physically present within the detention facility.

"On the premises" means a Detention Officer being physically present within the structure incorporating the detention facility, or within a building or structure sharing the same realty or located on realty that is contiguous to the realty upon which the structure incorporating the detention facility is located, provided that such remote building or structure is not located farther than 500 feet from the detention facility.

"Pat-down" means a noninvasive search of an inmate by hand performed by lightly skimming the exterior surface of the clothing covering the legs and torso.

"Physician or other licensed medical personnel" means a psychiatrist, medical doctor, osteopathic physician, physician's assistant, registered nurse, licensed practical nurse, emergency medical technician at the paramedic level or clinical nurse specialist [57 O.S. § 4.1(3)].

"Sensitive functions and procedures" means any bodily search or the visual supervision of any activity requiring an inmate to partially or fully disrobe.

"Sight check" means when a Detention Officer physically observes an inmate.

"Sight contact" means clear visibility within close proximity.

"Sound contact" means direct oral communication.

"Substantial remodeling" means the cost to repair/replace is at least fifty (50) percent of the cost to replace the facility.

"Sustained contact" means sight or sound contact that is not brief and inadvertent.

SUBCHAPTER 5. STANDARDS FOR DETENTION FACILITIES

310:670-5-5. Classification and segregation [AMENDED]

The facility administrator shall develop and implement written policies and procedures for the classification and segregation of inmates. The classification plan shall ensure the safety of inmates and staff. The following criteria shall ensure an adequate classification and reclassification system.

(1) Inmates of opposite sex shall be housed in separated living areas. Separation shall be by substantial architectural arrangements which permit no sustained sight contact. Housing of inmates with mixed gender identification will be administered in a manner to maximize inmate safety.

(2) Juvenile offenders.

(A) If detention of a juvenile is authorized, such juveniles shall be housed completely separate from adults without sustained sight and sound contact. Inadvertent contact with incarcerated adults outside of jail living areas not dedicated for use by juvenile offenders should be minimized.

(B) A juvenile may be held for up to six (6) hours for the purpose of identification, investigation, processing, release to parent(s), transfer to court, or transfer to juvenile facility following the initial custody.

(C) A juvenile criminal-type offender may be securely detained in an adult jail or lockup for up to six hours immediately before or immediately after a court appearance, provided sight and sound separation is maintained. This period may be extended to twenty-four hours (excluding weekends and holidays) where the jurisdiction is outside the metropolitan statistical area where:

(i) state law requires an initial court appearance within twenty-four (24) hours after being taken into custody;

(ii) there is no acceptable alternative placement; and

(iii) the jail has been determined by the Department to provide for sight and sound separation.

(3) Inmates considered to be a threat to other inmates or staff shall be housed separately from other inmates for the following reasons:

~~(~~

(A)~~(i)~~ Inmate's past criminal history;

(B)~~(ii)~~ The nature and severity of the charges pending against the inmate;

(C)~~(iii)~~ Inmate's behavior while in the facility; and

(D)~~(iv)~~ Other relevant reasons as directed by the administrator.

(4) Inmates may be double-celled or confined to ~~dormitory style~~barrack-style housing if the floor space meets the square footage requirements. These inmates shall be afforded the same living conditions and privileges as those occupying the general population. Any exception regarding conditions and privileges shall be defined by the administrator.

(5) Inmates who are intoxicated or under the influence of a controlled substance shall be housed separately from other inmates until such time as the medical authority or the detention facility administrator determines their suitability for placement into general population or other appropriate housing.

(6) Inmates who appear to have a significant medical or psychiatric problem may be separated from other inmates.

(7) Unsentenced inmates shall be separated from sentenced inmates, to the extent possible, and shall be permitted whatever confinement is least restrictive unless inmate behavior or other security considerations dictate otherwise.

(8) Classification and segregation shall not be done solely on the basis of race, color, creed or national origin.

310:670-5-11. Physical plant [AMENDED]

(a) **Existing facilities.**

(1) The reception and release area shall be located inside the security perimeter, but outside the inmate living area. There shall be a secure weapons storage area outside of the custody perimeter.

(2) All cells and living areas shall have at least forty (40) square feet of floor space for the initial inmate and at least twenty (20) square feet of floor space for each additional inmate occupying the same cell. Double-celling of inmates is permitted if there is at least sixty (60) square feet of floor space for two (2) persons.

(3) The facility shall have at least one (1) special purpose cell to provide for the temporary detention of inmates under the influence of alcohol or dangerous substances or for persons who are uncontrollably violent or self-destructive. These cells shall be designed to prevent injury.

(4) The housing and activity areas shall provide, at least the following:

(A) Lighting of at least twenty (20) foot candles;

(B) One (1) toilet and one (1) washbasin, with hot and cold running water, in every cell or ~~dormitory~~barrack at a ratio of at least one (1) toilet and one (1) washbasin to twenty (20) inmates; and

(C) A shower with non-skid floors and with hot and cold running water, at a ratio of at least one (1) shower to twenty (20) inmates in the housing areas.

(5) There shall be sufficient floor drains to ensure a sanitary facility.

(6) There shall be designated and marked emergency evacuation exits that comply with the requirements of the Oklahoma State Fire Marshal and which permit prompt evacuation of inmates and staff in an emergency.

(7) A county may provide a ~~dormitory-style~~barrack-style detention facility to accommodate ~~up to medium-security~~minimum-security inmates. It shall be equipped with washbasins, toilets and showers with hot and cold running water at a ratio of at least one (1) washbasin, one (1) toilet and one (1) shower to twenty (20) inmates. A ~~dormitory-style~~barrack-style detention facility shall meet all requirements for a detention facility.

(b) **New facilities and substantial remodeling of facilities (after January 1, 1992).** Plans for the construction of a new facility or the substantial remodeling of an existing facility shall be submitted to the Department for review and approval. Detention facilities are encouraged to submit plans to the Department for any re-modeling or repair that does not meet the substantial remodeling threshold to ensure standards are met.

(1) A new detention facility shall be geographically accessible to criminal justice and community agencies.

(2) The reception and release area shall be located inside the security perimeter but outside inmate living area. The reception and release area shall have the following components:

(A) Sally port;

(B) Secure weapons storage, outside the detention facility custody perimeter;

(C) Temporary holding rooms with adequate seating for its rated capacity, toilets and washbasins;

(D) Booking area;

(E) Medical examination room;

(F) Shower facilities;

(G) Secure area for inmate personal property storage;

(H) Telephone access;

(I) Interview room; and

(J) General administration space.

(3) Cells shall be constructed and arranged to allow direct natural light into each area where feasible.

(4) Windows installed after January 1, 2018, shall conform to ACA standards as adopted in 2017.

(5) All areas shall provide for at least twenty (20) foot candles of light.

(6) Each cell and detention room shall have at least forty (40) square feet of floor space for the initial inmate, and at least twenty (20) square feet of floor space for each additional inmate occupying the same cell. Double-celling is permitted if there is at least sixty (60) square feet of floor space for two (2) persons. Each room or cell shall have:

(A) One (1) toilet and one (1) washbasin with hot and cold running water, for every single or double occupancy cell or ~~dormitory~~barrack at a ratio of at least one (1) toilet and one (1) washbasin to twenty (20) inmates.

(B) Bunks and storage as indicated by square feet.

(7) A county may provide a ~~dormitory-style~~barrack-style detention facility to accommodate minimum security inmates. A ~~dormitory-style~~barrack-style detention facility shall be equipped with washbasins, toilets and showers with hot and cold running water at a ratio of at least one (1) washbasin, one (1) toilet and one (1) shower to twenty (20) inmates. A ~~dormitory-style~~barrack-style detention facility shall meet all requirements for detention facilities.

(8) There shall be a dayroom area for each living unit containing at least thirty-five (35) square feet of floor space per inmate for the maximum number of inmates who use the dayroom at one time. It shall be separate and distinct from the sleeping area but immediately adjacent and accessible.

(9) Living areas shall be planned and organized to permit segregation of inmates according to existing laws, and the facility's classification plan.

(10) Each facility shall have at least one (1) special purpose cell or room to provide for the temporary detention of persons under the influence of alcohol or dangerous substances, or for persons who are uncontrollably violent or self-destructive. Such cells shall be designed and located to prevent injury to confined persons.

(11) There shall be showers with hot and cold running water at a ratio of at least one (1) shower to twenty (20) inmates in the housing areas.

(12) There shall be floor drains maintained in working order.

(13) If the facility maintains an arsenal it shall be located outside the inmate area accessible only to authorized persons for secure storage, care and issuance of weapons, firearms, ammunition, chemical agents and other related security equipment.
(14) Space shall be provided for the secure storage of items an inmate has in his possession at the time of booking.
(15) Space shall be provided for administrative, professional and clerical staff, including conference rooms, storage room for records, public lobby and toilet facilities.
(16) There shall be designated and marked emergency exits that comply with the requirements of the Oklahoma State Fire Marshal and which permit prompt evacuation.
(17) In areas not specifically covered by these standards, new buildings and buildings undergoing substantial remodeling shall generally meet requirements of the State Fire Marshal and the plans shall be approved by the State Fire Marshal.

(c) **Temporary tent detention facilities.** The Department must approve the establishment and design of this type of facility. The State Fire Marshal must approve it. A county may erect a tent detention facility which is temporary in nature, to meet the needs of the county for confining minimum-security inmates. A tent detention facility shall not detain juveniles and shall maintain continuous, physical and architectural separation of male and female inmates. A tent detention facility shall not be required to meet minimum requirements for a detention facility but shall provide at least the following:

(1) **Accommodations.**
- (A) Basic daily living needs;
- (B) Medical needs;
- (C) Shelter from inclement weather;
- (D) Freedom from obvious safety hazards;
- (E) Fire extinguishers as recommended by the Oklahoma State Fire Marshal; and
- (F) General comfort consistent with security and control of inmates.

(2) **Security.**
- (A) Tents erected inside a fenced area suitable for guarding and controlling inmates; and
- (B) Permit inmates to have visitors consistent with security requirements.

[OAR Docket #24-702; filed 6-27-24]

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 679. LONG-TERM CARE ADMINISTRATORS [AMENDED]

[OAR Docket #24-707]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
310:679-1-1. Purpose [AMENDED]
310:679-1-2. Definitions [AMENDED]
Subchapter 3. Oklahoma State Board of Examiners for Long Term Care Administrators [REVOKED]
310:679-3-1. Organization [REVOKED]
310:679-3-2. Officers and committees [REVOKED]
310:679-3-3. Meeting of the Board [REVOKED]
310:679-3-8. Executive Director [REVOKED]
Subchapter 5. Investigative Procedures
310:679-5-2. ~~Receipt of referrals, reports and notifications~~Filing a Complaint [AMENDED]
310:679-5-2.1. Action on referrals and reports [REVOKED]
310:679-5-3. Complaints~~: investigations and investigative reports~~ [AMENDED]
310:679-5-6. Notice [REVOKED]
310:679-5-6.1. Hearings [NEW]
310:679-5-7. ~~Hearing~~Informal dispute resolution [AMENDED]
310:679-5-7.1. Administrative fines [AMENDED]
310:679-5-8. Reporting [AMENDED]

310:679-10-36. Preceptor~~'s final report~~ CEUs [AMENDED]
310:679-10-37. Preceptor's checklist [AMENDED]
310:679-10-38. ~~Change of status and discontinuance~~Preceptor concerns [AMENDED]
310:679-10-39. ~~Dismissal from program~~Intern concerns [AMENDED]
310:679-10-40. Compensation ~~of AIT Interns/Trainees~~for interns [AMENDED]
310:679-10-41. ~~AIT time on the job~~Internship requirements [AMENDED]
310:679-10-42. ~~AIT Internship exempt status~~Internship exemption [AMENDED]
310:679-10-43. Refusal to approve or renew preceptor or intern assignment [AMENDED]
310:679-10-44. ~~Supervision of AIT interns/trainees~~Maximum preceptor oversight [AMENDED]
Part 10. Standards for Administrators
310:679-10-50. Administrator ~~Code of~~ Ethics [AMENDED]
310:679-10-51. Administrator responsibilities [AMENDED]
310:679-10-52. ~~Requirements for administrators who serve as the Administrator-of-Record of two (2) or more licensed long term care (nursing) facilities employing Certified Assistant Administrators~~Serving as the Administrator-of-Record for two (2) or more licensed long-term care (nursing) facilities employing Certified Assistant Administrators [AMENDED]
Subchapter 15. Long~~-~~-Term Care Certified Assistant Administrators [AMENDED]
Part 1. CERTIFICATION OF LONG~~-~~-TERM CARE ASSISTANT ADMINISTRATORS [AMENDED]
310:679-15-1. Purpose [REVOKED]
310:679-15-2. Definitions [REVOKED]
310:679-15-3. Minimum qualifications for ~~an individual applicant to meet certification requirements for~~ a Certified Assistant Administrator (CAA) [AMENDED]
310:679-15-3.1. Evidence requirements [AMENDED]
310:679-15-4. ~~Conditions of employment for individuals 'certified' by the Board as having met the minimum qualifications required for them to serve as an Assistant Administrator~~Certified Assistant Administrator Scope of Practice [AMENDED]
Part 3. APPLICATION FOR CERTIFICATION AND REQUIREMENTS FOR CONTINUED ELIGIBILITY
310:679-15-8. Application process [AMENDED]
310:679-15-9. Approval process [REVOKED]
310:679-15-10. Requirements for certified assistant administrators [AMENDED]

AUTHORITY:
Commissioner of Health, Title 63 O.S. § 1-104; HB 2824
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 30, 2024
COMMENT PERIOD:
December 1, 2023 through January 5, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
February 22, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 22, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:

310:679-10-30 [AMENDED]
310:679-10-31 [AMENDED]
310:679-10-32 [AMENDED]
310:679-10-33 [AMENDED]
310:679-10-34 [AMENDED]
310:679-10-35 [AMENDED]
310:679-10-36 [AMENDED]
310:679-10-37 [AMENDED]
310:679-10-38 [AMENDED]
310:679-10-39 [AMENDED]
310:679-10-40 [AMENDED]
310:679-10-41 [AMENDED]
310:679-10-42 [AMENDED]
310:679-10-43 [AMENDED}
310:679-10-44 [AMENDED]
Part 10. Standards for Administrators
310:679-10-50 [AMENDED]
310:679-10-51 [AMENDED]
310:679-10-52 [AMENDED]
Subchapter 15. Long Term Long-Term Care Certified Assistant Administrators
Part 1. Certification of Long Term Long-Term Care Assistant Administrators
310:679-15-1 [REVOKED]
310:679-15-2 [REVOKED]
310:679-15-3 [AMENDED]
310:679-15-3.1 [AMENDED]
310:679-15-4 [AMENDED]
Part 3. Application for Certification and Requirements for Continued Eligibility
310:679-15-8 [AMENDED]
310:679-15-9 [REVOKED]
310:679-15-10 [AMENDED]

GUBERNATORIAL APPROVAL:

October 2, 2023

REGISTER PUBLICATION:

41 Ok Reg 125

DOCKET NUMBER:

23-766

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

HB 2824 directed the transfer of employees, powers, duties, monies, contractual rights and certain administrative rules from the Oklahoma State Board of Examiners for Long Term Care Administrators (Board) to the Oklahoma State Department of Health (Department) effective November 1, 2023. The legislation abolishes the Board and transfers the Board's duties and authority to the Commissioner of Health and the Department. These proposed permanent rules will replace emergency rules and are necessary to ensure the uninterrupted licensure of long-term care administrators by the Department. The proposed rule amendments remove the references to the Board and its authority and replace it throughout with the designation of the Commissioner of Health and the Department as the authority for the licensure of long-term care administrators. Revisions to the licensure rules also reflect statutory amendments to the licensure process for long term care administrators contained in 63 O.S. §§ 1-1949 et seq., the Long-Term Care Administrator Licensing Act, and 63 O.S. §§ 330.51 et seq., Nursing Home Administrators. The categories for licensure in the rules have been amended to reflect the "Tier 1" and "Tier 2" designations in the legislation. Licensure requirements, including minimum education

requirements, training and continuing education have been aligned with the designation of the long-term care administrator as Tier 1 or Tier 2.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

310:679-1-1. Purpose [AMENDED]

This Chapter has been adopted for the purpose of ~~complying with~~implementing the provisions of the ~~Administrative Procedures Act, 75 O.S. Sections 301 et seq.~~ "Long-Term Care Administrator Licensing Act" 63 O.S. § 1-1949.1. ~~This Board, known as the Oklahoma State Board of Examiners for Long Term Care Administrators ("OSBELTCA")~~ The Commissioner of Health, carries out statutory authority for developing, imposing and enforcing standards that must be met by individuals in order for them to receive, maintain, or renew a ~~long term~~long-term care administrator's license/certification. These rules are written to execute the aforementioned statutory responsibilities for licensing and/or certifying administrators ~~named in Title 63 Oklahoma Statutes, Chapter 12, "Oklahoma State Board of Examiners for Long Term Care Administrators" §§ 330.51 - 330.65~~.

310:679-1-2. Definitions [AMENDED]

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

"Accredited college" or **"university"** means a college or university that is domiciled within the United States and that is accredited by: the North Central Association of Colleges and Schools, The Higher Learning Commission; the Southern Association of Colleges and Schools, Commission on Colleges; the Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities; the New England Association of Schools and Colleges, Commission on Institutions of Higher Education; the Middle States Association of Colleges and Schools, Middle States Commission on Higher Education; or the Northwest Commission on Colleges and Universities.

~~"Administrator-In-Training"~~ "Administrator in Training" or **"AIT"** means an individual ~~serving~~participating in a ~~Board~~ Department-approved internship within the facility type for which ~~he~~the intern is seeking ~~licensure/certification~~licensure or certification under the supervision of a Department-approved preceptor ~~'certified' by the Board~~. These individuals may also be referred to as an intern or trainee. ~~Individuals serving an AIT internship may also be referred to herein as 'intern/trainee'.~~

"Administrator" means any individual ~~duly~~ licensed or certified to operate as a long-term care facility administrator by the ~~Board~~ Department ~~regardless of the role or function he performs~~.

"Administrator of Record" or **"AOR"** means the administrator licensed by this ~~Board~~ Department who has the authority and responsibility for the total operation of the facility, subject only to the policies adopted by the governing authority.

~~**"Adult Day Care (ADC) Administrator"** means a long term care administrator (or director) duly licensed by the Board to serve in this capacity in an Adult Day Care Center. The scope of practice of an individual licensed as an Adult Day Care Administrator is limited to a licensed Adult Day Care Center.~~

"Adult Day Care (ADC) Center" ~~shall have the same meaning as~~means such term ~~is~~as defined in the Adult Day Care Act, Title 63 O.S. Section 1-870 *et seq*.

"Adverse action" means revocation or suspension of a license, reprimand, censure or probation; any other loss of or restriction placed upon the license, including, but not limited to the right to apply for, or renew a license; voluntary surrender in lieu of discipline, non-renewal (excluding nonrenewal due to non-payment of fees, or retirement); administrative fines and any other negative action or finding by the ~~Board~~ Department.

"Assisted Living Center" ~~shall have~~means the same ~~meaning as such~~ term ~~is~~as defined in the Continuum of Care and Assisted Living Act, Title 63 O.S. Section 1-890.1 *et seq*. Also known as an Assisted Living Facility (ALF).

~~**"Board"** means the Oklahoma State Board of Examiners for Long Term Care Administrators (OSBELTCA) or its staff.~~

"Certification" ~~contextually, prior to the effective date of these rules, means the authorization granting a person the privilege of serving as a long term care administrator and continues until licensed in accordance with these rules or until October 1, 2012, whichever occurs first. The exception is the certified assistant administrator (CAA) which this Board continues to certify. Certification after the effective date of these rules pertains to the completion oftraining at an approved institution of higher learning or other body conducting such training (except Administrator University for Nursing Home Administrators and Board conducted training for Adult Day Care administrators). The institution or body certifies that the individual has been properly and completely trained and is prepared, as a prerequisite, for the state standards exam and/or NAB RC/AL exam. Certification of training is a step in the licensure process for RC and RC/AL licensure.~~means the written authorization from the Department granting a person the ability to serve as a long-term care administrator, for a specific period of time, which requires the person to adhere to the rules, regulations and statutes which govern the certificate.

"Certified Assistant Administrator (CAA)" or **"Assistant Administrator"** ~~as used herein~~ means an individual who has been ~~'certified'~~certified by the ~~Board~~ Department as having met the minimum qualifications established by the ~~Board~~ Department to be able to serve as a full-time, Certified Assistant Administrator in a licensed ~~long term~~long-term care nursing facility, and who acts under the direction, supervision and license of a licensed ~~nursing home~~ long-term care administrator.

"Complaint" means an allegation against an individual subject to applicable statutes and/or rules.

"Continuum of Care Facility" ~~shall have~~means the same ~~meaning as such~~ term ~~is~~as defined in the Continuum of Care and Assisted Living Act, Title 63 O.S. Section 1-890.1 *et seq*.

"Degree equivalency evaluation" means an equivalency evaluation of a degree that was earned from a college or university not domiciled in the United States against a degree earned from an ~~'accredited college or university' (see definition earlier herein)~~accredited college or university that is performed by one of the following:

(A) Educational Credential Evaluators (ECE)
(B) Educational Records Evaluation Service (ERES)
(C) International Education Research Foundation Credentials Evaluation Service (IERFCES)
(D) World Education Services (WES)

"Department" means the Oklahoma State Department of Health (OSDH)

"Endorsement" means the applicant has met all requirements for reciprocity.

~~**"Formal Complaint"** means a formal allegation by the Board that probable cause exists that an individual licensed as a long term care administrator has violated applicable statutes and/or rules. These allegations are written in a legal document filed with the Board by its prosecuting attorney.~~

"Good Standing" means a current license/certification/registration is ~~active and~~ not expired, suspended, revoked, surrendered, conditioned or otherwise ~~in status that in any manner restricts the activity of the holder under its authority~~ restricted. ~~When there is any other history of disciplinary action taken by any jurisdiction against a license, certification or registration, the Board retains sole discretion of evaluating the magnitude of any such action in its determination of an applicant's eligibility for approval in Oklahoma.~~

"Health Services Executive" or **"HSE"** means a ~~broad-based NAB verified qualification which exceeds this Board's standards to be licensed as a nursing home administrator (NHA). It is not a license and it does not grant the holder of this qualification any additional privileges with the NHA license.~~ broad-based NAB qualification that allows administrators to practice along the senior living and health services continuum and increases the portability of licensure.

"Intermediate Care Facility for ~~the Mentally Retarded) (ICF/MR)~~ Individuals with Intellectual Disabilities (ICF/IID)" means a facility with the ~~whose~~ primary purpose ~~is to provide~~of providing health and rehabilitative services for ~~persons with mental retardation or a related condition,~~ individuals with intellectual disabilities and otherwise meets the Conditions Of Participation (COPs) found at 42 CFR §483.400 *et seq*. ~~ICF/MR is synonymous with the term ICF/IID (intermediate care facility for individuals with an intellectual disability).~~

"Intermediate Care Facility for ~~the Mentally Retarded~~ Individuals with Intellectual Disabilities, 16 Beds and Less ~~(ICF/MR-16)~~ (ICF/IID-16)" means a facility with sixteen (16) or fewer licensed resident beds that serves ~~persons with mental retardation or with related conditions~~ individuals with intellectual disabilities and that otherwise meets the Conditions Of Participation (COPs) found at 42 CFR §483.400 *et seq*.

~~**"Lapsed License or Expired License"** means a license that is no longer valid because the licensee failed to renew his/her license by the renewal deadline, causing the license to lapse or expire.~~

"License" means the written authorization of the ~~Board~~Department granting a person the ~~privilege of serving~~ability to serve as a ~~long term~~long-term care administrator for a specific period of time, ~~and further, a legal instrument obligating that~~which requires the person to adhere to the rules, regulations and statutes ~~that~~which govern the license.

~~**"Licensing Year"** shall mean the specific period of time a license/certification issued by the Board is valid. For purposes of these Rules, the term "licensing year" shall have the same meaning as "calendar year," the time period beginning at 12:01a.m., January 1, and ending as of 12:00 midnight, the same December 31.~~

~~**"Licensure by Endorsement"** refers to the process of a jurisdiction granting a license to an applicant who is licensed in good standing and upon proof of requisite experience, education and qualifications at an equivalent designation in another jurisdiction.~~

"~~Long Term~~Long-Term Care" ~~primarily for the purposes of this board, as used herein, includes~~means care given at facilities where a licensed ~~long term~~long-term care administrator is required such as a nursing facility, assisted living facility, residential care ~~facility or~~facility, an adult day care center, or intermediate care facility. ~~It does not encompass temporary care situations such as a swing bed hospital.~~

"Long-term care administrator" *means a person licensed or certified as a Tier 1 long-term care administrator or Tier 2 long-term care administrator under ...* the Long-Term Care Administrator Licensing Act. *A long-term care administrator must devote at least one-half (1/2) of such person's working time to on-the-job supervision of a long-term care facility; provided that this requirement shall not apply to an administrator of an intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16), in which case the person licensed by the state may be in charge of more than one ICF/IID-16, if such facilities are located within a circle that has a radius not more than fifteen (15) miles, and the total number of facilities and beds does not exceed six facilities and sixty-four beds. The facilities may be free-standing in a community or may be on campus with a parent institution. The ICF/IID-16 may be independently owned and operated or may be part of a larger institutional ownership and operation.* [Title 63 O.S. § 1-1949.2]

"National Association of ~~Long Term~~Long-Term Care Administrator Boards"("NAB") means an organization ~~is~~ composed of state boards ~~or~~and agencies responsible for licensing ~~long term~~long-term care administrators. ~~The basic objective of the NAB is to assist these boards and agencies in carrying out their statutory and regulatory responsibilities in the licensure, re-licensure and regulation of long term care administrators. One of NAB's functions is the development and administration of the national long term care administrator or Nursing Home Administrator (NHA) examination, as well as the Residential Care/Assisted Living (RC/AL) examination.~~

"NAB Domains of Practice" ~~refers to~~means the content areas of tasks, knowledge, and skills necessary for administration of a long-term care facility. ~~the tasks performed by a long term care administrator and the knowledge, skills and abilities identified by NAB as necessary to perform those tasks in its professional practice analysis.~~ The NAB Domains of Practice can be found on the National Association of ~~Long Term~~ Long-Term Care Administrator Boards (NAB) website at www.nabweb.org.

~~**"Notification by OSDH"** refers to the OSDH (Oklahoma State Department of Health) notifying the Board of survey results of a nursing facility that include a substandard quality of care citation. A notification may become a referral.~~

"Nursing Home and Nursing Facility" ~~shall refer to~~means both a "Nursing Facility" and "Specialized Facility" also referred to as "rest home" or "specialized home" as such terms are defined in the Nursing Home Care Act, Title 63 O.S. Section 1-1901 *et seq*. and/or as defined at 42 CFR §483.1 *et seq*.

~~**"Nursing Home Administrator (NHA)"** means a long term care administrator duly licensed by the Boardto serve in this capacity in a nursing facility, nursing home, skilled nursing facility or any similarly worded facility type. Their scope of practice includes ICF/MR, RCF, ALF and Adult Day Care Centers and the term is synonymous with nursing facility administrator.~~

"Preceptor" means an individual qualified by training and experience, who is currently licensed as a ~~long term~~long-term care administrator in Oklahoma, is ~~'certified' by the Board~~authorized by the Department as a qualified preceptor and is charged with coordinating the training of an individual authorized to operate as an administrator in training. ~~AIT intern/trainee who is enrolled in a Board- approved Administrator-in? Training (AIT) internship program.~~

"Probation" is a condition(s) imposed for a specified period of time at the initial issuance of a license or contained in an order resulting from a complaint against the administrator.

"Provisional license" means the temporary authority to serve as a ~~long term~~ long-term care administrator as granted by ~~the Board~~the Department to an individual ~~of good character~~ who meets the ~~appropriate conditions and~~ requirements ~~prescribed by the Board~~ for provisional licensure.

~~**"RC/AL Administrator"** means a long term care administrator duly licensed by the Board to serve in this capacity in either or an RCF or ALF. The scope of practice of an individual licensed as an RC/AL administrator is limited to either a licensed Residential Care Facility (RCF) or a licensed Assisted Living Facility (ALF).~~

"Reciprocity" means the licensure process through which candidates licensed in other states may be granted a license in Oklahoma once they have demonstrated the requirements for licensure for the state in which they are currently licensed, have substantially equivalent requirements to those in this state and meet any residency requirements. ~~refers to the acceptance of an actual license wherein a jurisdiction chooses to recognize the education, experience and qualifications~~

~~that a licensee has obtained from another state. To have an out-of-state long-term care license accepted in Oklahoma, a licensee from another state is required to register with this Board and prove that equivalence. It is similar to licensure by endorsement but different in that with reciprocity, no new license is issued.~~

~~**"Referral or Report"** means an issue or concern regarding a long term care administrator that has been reduced to writing and is forwarded to the Board for a determination as to whether a violation of the Board's Rules has occurred. Such referral or report may be made by an individual or agency.~~

~~**"Residential Care (RC) Administrator"** means a long term care administrator duly licensed by the Board to serve in this capacity in only an RCF. The scope of practice of an individual licensed as a Residential Care Administrator is limited to a licensed Residential Care Facility (RCF).~~

"Residential Care Home" or **"Residential Care Facility (RCF)"** means ~~shall have~~ the same ~~meaning~~ as such term is defined in the Residential Care Act, Title 63 O.S. Section 1-819 *et seq*.

"Revocation or Revoked License" means ~~is a sanction~~an enforcement imposed upon a ~~license/certificate~~license or certificate by the ~~Board~~ Department that results in ~~a complete loss~~termination of ~~license/certificate~~license or certificate and all privileges attendant thereto and requires holder to surrender ~~his license/certificate~~the license or certificate~~, the annual license/certificate renewal card and all other license or certificate-related documents~~ to the ~~Board~~ Department.

"Specialized facility" ~~shall have~~means the same ~~meaning~~ as such term is defined in the Nursing Home Care Act, Title 63 O.S. Section 1-1901 *et seq*.

"Suspension or Suspended License" ~~is a sanction~~means an enforcement imposed upon a ~~license/certificate~~license or certificate holder by the ~~Board~~Department for a designated period of time where the individual is not authorized to work in the capacity of an administrator until all the requirements for reinstatement of the licensure are met. ~~The licensee retains his license/certificate and his annual renewal card and therefore must renew the license, yet he shall not function in the capacity as a long term care administrator until the Board determines that conditions responsible for the suspension no longer exist, any or all other restoration requirements imposed by the Board Department have been met, and the Board has restored his status.~~

"Tier 1 long-term care administrator" *means a person licensed by this state to perform the duties of an administrator serving in a skilled nursing or nursing facility or an intermediate care facility for individuals with intellectual disabilities with seventeen or greater beds (ICF/IID).* [63 O.S.§ 1-1949.2] Licensed Tier 1 long-term care administrators may serve as administrator over all long-term care facility types.

"Tier 2 adult day care (ADC) administrator" means a tier 2 long-term care administrator licensed by the Department to serve in an Adult Day Care Center.

"Tier 2 ICF/IID-16 administrator" means a tier 2 long-term care administrator licensed by the Department to serve in an intermediate care facility for individuals with intellectual disabilities with sixteen or fewer bed (ICF/IID-16).

"Tier 2 long-term care administrator" *means a person licensed or certified by this state to perform the duties of an administrator serving in an assisted living facility, residential care facility, adult day care center, or intermediate care facility for individuals with intellectual disabilities with sixteen or fewer beds (ICF/IID-16.;* [63 O.S.§ 1-1949.2]

"Tier 2 residential care/assisted Living (RC/AL) administrator" means a tier 2 long-term care administrator licensed by the Department to serve in a residential care facility or an assisted living facility.

"Upper-level management" means an individual who has had supervisory experience over multiple staff and who has been actively involved with strategic decision-making and planning.

SUBCHAPTER 3. OKLAHOMA STATE BOARD OF EXAMINERS FOR LONG TERM CARE ADMINISTRATORS [REVOKED]

310:679-3-1. Organization [REVOKED]

~~The members of the Board shall elect from their membership a Chair, Vice- Chair and Secretary-Treasurer to serve two (2) year terms beginning November 1 of each odd-numbered year.~~

~~(1) Nominations may be made by any member of the Board or a committee named by the Chair.~~
~~(2) Eachmember of the Boardmay cast one (1) vote for each office for which an election is held.~~
~~(3) Election shall be bymajority vote of a quorum.~~
~~(4) Board officer vacancies shall be filled in the same manner when the vacancy occurs.~~
~~(5) A simple majority of the filled seats of the current Board shall constitute a quorum of the Board.~~

310:679-3-2. Officers and committees [REVOKED]

~~(a) The Chair shall be the Chief Executive Officer of the Board. The Chair shall call and preside at all meetings and shall be a member ex-officio of all committees. The Chair may act for the Board in such other matters as it may authorize.~~
~~(b) The Vice-Chair, in the absence of the Chair, shall assume all of the Chair's duties and have all of the Chair's authority. The Vice Chair shall also perform such duties as may be assigned by the Chair.~~
~~(c) The Secretary-Treasurer shall keep accurate and complete minutes of all meetings (including minutes of executive sessions), attend to all correspondence, call meetings on order of the Chair, and maintain accurate and complete records of all other business transactions and funds of the Board.~~
~~(d) The Board may appoint a recording secretary to assist in fulfilling the responsibilities of the Secretary-Treasurer. The recording secretary may be an employee of the Board.~~
~~(e) The elected officers shall constitute the Executive Committee of the Board and may provide counsel to the Chair and/or Executive Director in situations requiring immediate attention and action.~~
~~(f) Standing and special committees may be instituted and their members appointed by the Chair, and shall serve until their purpose is accomplished or until the date of the meeting at which the officers of the Board are elected. Such committees shall, at each regular meeting of the Board, report on committee~~
~~activities occurring since the last regular meeting of the Board if/when any activity occurred. If there was no activity, a report is not required.~~

310:679-3-3. Meeting of the Board [REVOKED]
~~(a) All proceedings of the Board shall be held and conducted in compliance with the Oklahoma OpenMeeting Act.~~
~~(b) Regularly scheduled meetings shall be held at a time and place designated by the Chair.~~
~~(c) The Secretary-Treasurer shall notify the membership of the time and place of all regularly- scheduled meetings at least five (5) working days prior to the date of said meeting.~~
~~(d) Special meetings may be called at any time by the Chair and shall be called if requested by a majority of the members of the Executive Committee or at the request of a majority of the membership of the Board. The Secretary-Treasurer shall notify the Board of the time, place and business to be transacted at least forty-eight (48) hours in advance of the time set for the special meeting.~~

310:679-3-8. Executive Director [REVOKED]
~~The Board's Executive Director, as the chief administrative officer for the Board, shall carry out the administrative functions of the Board, including, but not limited to signing orders entered by the Board.~~

SUBCHAPTER 5. INVESTIGATIVE PROCEDURES

310:679-5-2. ~~Receipt of referrals, reports and notifications~~Filing a Complaint [AMENDED]
~~(a)~~ Any person or ~~any person on behalf of a recognized legal entity~~agency may file a ~~written referral or report with the Board by submitting the same via U.S. Mail, via electronic mail, via the Board's web-based electronic report form or by delivering the same in person to the Board's office~~ complaint against a long-term care administrator by contacting the Oklahoma State Department of Health.
~~(b) Anonymous referrals or reports shall not be accepted.~~
~~(c) A report shall be generated by the Board or Board staff when information obtained from the media, law enforcement, any regulatory agency, or any other source indicates a violation may have occurred.~~
~~(d) The Board shall reduce to writing a verbal report received by phone or in person.~~
~~(e) If the individual making the report is a facility resident, the resident's personal or legal representative, or a current employee of the facility, the Board shall keep the individual's identity confidential.~~
~~(f) 'Paper' referrals or reports received by Board staff shall be receipted with a 'date stamp' as to the date the same were received in the Board's office, or, as applicable, by the electronic 'date stamp' created when the electronic version of the referral or report was either created/sent or electronically received by Board staff.~~
~~(g) When the Board receives notification of survey results by the Oklahoma State Department of Health(OSDH) that involve substandard quality of care; OR otherwise obtains information about events or incidents that may implicate an administrator as possibly having violated any of the Board's rules, such as through any form of news media, this information shall be reviewed by a person appointed by the Board, and shall determine whether the information should be referred to the Probable Cause Committee.~~

310:679-5-2.1. Action on referrals and reports [REVOKED]

~~(a) A Probable Cause Committee shall review and may recommend action to the Board on any and all referrals or reports received.~~
~~(b) A formal complaint may be generated by the Board or Board staff when the Probable Cause Committee determines that a violation may have occurred.~~

310:679-5-3. Complaints~~: investigations and investigative reports~~ [AMENDED]
(a) ~~Each referral or report shall be thoroughly investigated. If investigative reports are prepared, such reports are confidential.~~ Upon receipt of a complaint against a long-term care administrator, the Department shall initiate an investigation within ninety (90) days. All information and records collected by the Department as part of a complaint investigation shall be kept in a confidential investigation file.
~~(b) An investigative report shall not be deemed to be a record as that term is defined in the Oklahoma Open Records Act nor shall the report be subject to subpoena or discovery in any civil or criminal proceeding.~~
(b) Upon completion of a complaint investigation, if the Department finds that sufficient evidence exists to initiate an individual proceeding against a long-term care administrator, a notice of the violation will be served upon the long-term care administrator in compliance with Chapter 2 of this Title and the Administrative Procedures Act. The notice of violation shall include the nature of the violation(s) found, the provisions of state law or rule alleged to have been violated, the Department's assessed administrator penalty resulting from the alleged violation, and the administrator's right to seek an informal dispute resolution or hearing.

310:679-5-6. Notice [REVOKED]
~~(a) All notices or other papers requiring service in an individual proceeding shall be served in one of the following manners:~~
~~(1) personally by any person appointed to make service by the Director of the Board and in anymanner authorized by the law of this State for the personal service of summonses in proceedings in a state court; or,~~
~~(2) by certifiedmail to the respondent at the last address provided to the Board by respondent or to respondent's attorney.~~
~~(b) Service of notice. Such service shall be complete upon the personal service or certified mailing of the notice or other paper to respondent's last address~~

310:679-5-6.1. Hearings [NEW]
(a) An administrator may submit a request for hearing with the Department within thirty (30) days of receipt of the Notice of Violation.
(b) If a hearing is requested, the Department shall promptly schedule a hearing and serve the administrator with a Notice of Hearing in compliance with 75 O.S. §309(B).
(c) The hearing shall be conducted in accordance with the Administrative Procedures Act and Chapter 2 of this Title.
(d) The Commissioner of Health or designee shall issue a decision within fifteen (15) working days following the close of the hearing record. The decision shall include Findings of Fact and Conclusions of Law separately stated. The final order resulting from a hearing shall comply with the requirements of the 75 O.S. §312 and be served upon each party.
(e) An appeal of the Final Order shall be perfected pursuant to 75 O.S. Section 318 of the Administrative Procedures Act.

310:679-5-7. ~~Hearing~~Informal dispute resolution [AMENDED]
~~(a) Individual proceedings shall be conducted by the Board according to the provisions established in 63 O.S. Sections 330.64 and 330.65 and 75 O.S. Section 309 et seq.~~
~~(1) The respondent shall bring to the hearing twenty (20) copies of all documents that he intends to offer into evidence as well as twenty (20) copies of all motions that he intends to submit for Board consideration.~~
~~(2) An electronic recording of the proceeding shall be made by the Board, and a copy of the electronic recording shall be provided by the Board to a party to the proceeding at that party's request. Should there be any equipment failures, the minutes of the meeting and proceedings will be provided instead of the electronic recording.~~
~~(3) The full proceedings of any hearing may be transcribed. The party wanting the services of a court reporter to transcribe the proceedings shall make the arrangements with a court reporter for such transcriptionpay the reporter's fee(s),and notify the Board in advance of the hearing of the expected presence of a court reporter.~~
~~(b) Any party aggrieved by a decision of the Board following a hearing may appeal directly to District Court pursuant to the provisions of Section 318 of Title 75 of the Oklahoma Statutes.~~
(a) An Administrator may request, in writing, an informal dispute resolution within thirty (30) days from the date of notice from the Department.

(b) *The impartial decision-making panel shall be a group of six (6) individuals who meet the following criteria:*

(1) *Three members shall be impartial volunteers who have experience in the operation of the same type of long-term facility as the administrator who is the subject of the complaint. Such volunteers may include, but not be limited to, an administrator, assistant administrator, owner, operator, director of nursing, or compliance executive of an appropriate long-term care facility, but shall not include any person with a direct financial interest in any facility that employs or contracts with the administrator who is the subject of the complaint; and*

(2) *Three members shall be persons representing the aging or disabled community, as appropriate for the type of long-term facility whose administrator is the subject of the complaint.*

(c) *Each party shall submit to the impartial decision-making panel all documentary evidence that the party believes has a bearing on or relevance to the violation or violations alleged by the Department in the complaint.*

(d) *The Department shall present initial arguments. The administrator shall then present his or her arguments. The informal dispute resolution shall be limited to no more than two (2) hours in length, with each party being permitted one (1) hour to present its arguments; however, the impartial decision-making panel may grant each party additional equal time for good cause as determined by the impartial decision-making panel.*

(e) *Rules of evidence or procedure shall not apply to the informal dispute resolution except as provided in this section. The impartial decision-making panel may:*

(1) *Accept any information that the impartial decision-making panel deems material to the issue being presented; and*

(2) *Reject any information that the impartial decision-making panel deems material to the issue being presented.*

(f) *The informal dispute resolution may not be recorded; however, the impartial decision-making panel may make written or recorded notes of the arguments.*

(g) *Only employees of or health care providers contracted by the facility where the administrator who is the subject of the complaint is employed may appear or participate in the informal dispute resolution on behalf of the administrator, except that the administrator may call one character witness to appear and testify on his or her behalf.*

(h) *Only employees of the Department may appear or participate at the meeting for, or on behalf of, the Department for the purpose of presenting arguments. In addition to such employees, one or more employees of the Department may provide technical assistance to the impartial decision-making panel at the panel's request. Any employee of the Department who participates in the informal dispute resolution process as described in this paragraph shall have no current involvement in long-term care facility surveys including but not limited to the informal dispute process described in Section 1-1914.3 et seq. of Title 63 of the Oklahoma Statutes or the alternative informal dispute resolution process described in Section 1-1914.11 et seq. of Title 63 of the Oklahoma Statutes for long-term care facilities. This paragraph shall have no resolution process.*

(i)*The State Long-Term Care Ombudsman or designee may appear or participate in the informal dispute resolution.*

(j) *No party my be represented by an attorney in the informal dispute resolution.*

(k) *The informal dispute resolution process is limited to violations alleged by the Department in the complaint. If the impartial decision-making panel finds that matters not subject to the informal dispute resolution are presented, the impartial decision-making panel shall strike all documentary evidence related to or presented for the purpose of disputing the matter not subject to the informal dispute resolution. The impartial decision-making panel may not include in the statement of findings described in* subsection l *of this section any matter not subject to the informal dispute resolution.*

(l) *Upon the conclusion of all the arguments by the parties at the informal dispute resolution, the impartial decision-making panel shall issue a written statement of findings, which shall be provided to all parties and which shall include:*

(1) *A summary of any alleged violations;*

(2) *A statement of whether the impartial decision-making panel agrees that the alleged violation or violations occurred;*

(3) *The facts and persuasive arguments that support the finding of the impartial decision-making panel for each allege violation; and*

(4) *A recommendation on appropriate disciplinary action against the administrator, if any.*

(m) *If the impartial decision-making panel cannot reach a majority decision on the findings of the informal dispute resolution as described in* subsection l *of this section, the State Commissioner of Health may intervene for the purpose of breaking a tie.*

(n) *The Department shall review the findings of the impartial decision-making panel and shall take such findings into consideration when determining whether to pursue further disciplinary action against the administrator.* [Title 63 O.S. §1-1949.7]

310:679-5-7.1. Administrative fines [AMENDED]

(a) The ~~Board~~Department may impose administrative fines, in an amount to be determined by the ~~Board~~ Department, against persons whom the ~~Board~~Department has determined have not complied with the provisions of the Oklahoma statutes ~~relating to Long Term Care Administrators or rules adopted by the Board~~ and OAC 310:679. ~~Administrative fines shall not exceed One Thousand Dollars ($1,000.00) per violation.~~
(b) Administrative fines shall not exceed One Thousand Dollars ($1,000.00) per violation.
(c) In assessing a fine, the ~~Board~~Commissioner shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the scope, severity and repetition of the violation and any additional factors deemed appropriate by the ~~Board~~ Commissioner.
~~(c) Administrative fines assessed by the Board on-or-after August 1, 2009, must be paid, in full, within thirty (30) calendar days of the date assessed, unless other payment terms have been agreed to, in writing, by the Board.~~
~~(d) Failure to timely pay Administrative fines assessed by the Board may subject the individual to additional Board sanction(s), including license suspension or revocation.~~
~~(e) Failure of the licensee to provide verification of completion of the required number of CEUs shall result in specific standard fines and penalties (automatically approved) that will be enforced per 490:1-9-5.~~

310:679-5-8. Reporting [AMENDED]
(a) The ~~Board~~Department shall report final adverse actions to the National Practitioner Data Bank (NPDB), ~~formerly the Healthcare Integrity and Protection Data Bank (HIPDB),~~ in accordance with requirements at Title 45, Code of Federal Regulations, Part 60.
(b) Disciplinary action taken against a license/certificate holder and reported to the NPDB shall be reported on the state registry as provided in 63 O.S. §330.64.
(c) ~~If the~~The Department may report disciplinary action taken against a license or certificate holder to other jurisdictions where the Department has knowledge that a license or certificate holder possesses a license or certificate. ~~has knowledge that the license/certificate holder is licensed or certified as a long-term care administrator in any other legal jurisdiction(s) and/or if the Board has knowledge that this person holds other professional license(s) or certification(s), the Board may report disciplinary action taken against this person to all appropriate state licensing authorities, federal regulatory authorities and professional certification organizations.~~
(d) ~~Referrals may be made to law enforcement authorities, the State's Medicaid Fraud and Abuse authorities, Adult Protective Services, the State's Ombudsman, or any other licensing or regulatory entity.~~The Department may make referrals to other regulatory authorities as necessary.

SUBCHAPTER 7. FEES AND DEPOSITS

310:679-7-1. Fees and deposits [REVOKED]
~~(a) All fees, fines and costs collected by the Board under the provisions of 63 O.S. Sections 330.51 et seq. shall be deposited with the State Treasurer within twenty-four (24) hours of receipt, in a fund to be known as the Oklahoma State Board of Examiners for Long Term Care Administrators Revolving~~
~~Fund. This fund may be used for the purposes of the Board as provided in the Statutes.~~
~~(b) Fees, fines and costs received by the Board for any purpose described herein, all of which shall be payable to the Board online via credit or debit card payment, shall become the exclusive property of the Board and shall not be refunded in whole or in part for any reason or purpose without the Executive Director's approval. The Board does not accept checks or cash payments.~~
~~(c) The following fees as listed within 490:1-7-2, are due and payable to the Board, in full, immediately upon assessment by the Board:~~
~~(1) Fees for Non-Sufficient Funds (NSF) related to Electronic Funds Transfers;~~
~~(2) Late Fees; and/or~~
~~(3) Late Fees for Failure to Provide Current Contact information.~~
~~(d) Unless otherwise agreed to in writing by the Board, all other fees charged by the Board are due and payable to the Board, in full, on-or- before the date the Board or Board staff is to take action on the item wherein a fee is specified.~~
~~(e) Failure to timely pay Administrative fees assessed by the Board may subject the individual to additional Board sanction(s), including license suspension or revocation.~~

310:679-7-2. Schedule of fees [AMENDED]
(a) Initial and Provisional ~~Long Term~~Long-Term Care Administrator License - $200.00

(1) This licensure fee applies to all original licensures, registrations/registration renewals and certifications.
(2) The initial license will expire on December 31st of the year it was effective.
(b) Renewal fees
(1) ~~NHA~~Tier 1 Long-Term Care License - $200.00 per year;
(2) Certified Assistant - $75.00 per year;
(3) Tier 2 RC/AL License - $175.00 per year;
~~(4) RC License - $100.00 per year;~~
~~(5)~~(4) Tier 2 ADC License - $100.00 per year;
(5) Tier 2 ICF/IID-16 License - $100.00 per year
(c) Late Fee - $100.00 for each calendar week, or portion thereof. ~~,a licensee fails to timely meet the requirementsof a deadline or due date established or agreed to, in writing, by the Board.~~
(d) Pre-Licensing File Origination and Maintenance fee - $100.00
~~(c) Provisional License (per application) - $200.00~~
~~(f) Name Change on "Certificate of License" (per request) - $25.00 (documentation of a legal name change shall be required, such as a marriage certificate or other legal document)~~
~~(g) Endorsement Licensure Questionnaire (per request) - $50.00~~
~~(h) Replacement "Certificate of License" (due to loss or damage) - $25.00~~
~~(i)~~(e) State Standards Review (per person) - $100.00
~~(j)~~(f) State Standards Examination Packet - $50.00
~~(k)~~(g) State Standards Examination administered by the Department - $100.00 per examinee ~~(when administered by OSBELTCA)~~
~~(l)~~(h) State Standards Examination, unscheduled examination - $500.00 per examinee ~~(when administered by OSBELTCA)~~
~~(m)~~(i)~~Board~~ Department-Sponsored Educational Workshop (per day) - up to $1,000 per attendee.
~~(n) Photocopies (per page) - $0.25~~
~~(o) Rules and Regulations (paper copy), per page - $0.25~~
~~(p)~~(j) ~~Administrator-In-Training~~Administrator in Training (AIT) Program: Internship Permit (per ~~intern/trainee~~ applicant) - ~~350.00~~ $350.00
~~(q)~~(k) Continuing Education ~~Program Approval~~Program Application Fee (per credit hour) - $55.00
~~(r) Mailing List on Plain Paper (per page) - $0.25~~
~~(s) Electronic Mailing List - $10.00~~
~~(t)~~(l) Returned Check Fee or Fee related to ~~Non- Sufficient~~Non-Sufficient Funds (NSF) to cover an Electronic Funds Transfer (EFT) - $30.00
~~(u) Late Fee for Failure to Provide Current Contact and/or Employment Information - $75.00~~
~~(v)~~(m) Fee for Administrator ~~University~~Training - Not to exceed $200.00 per day
~~(w)~~(n) ~~Convenience Fee for Online Licensure Renewal - Determined by Intermediary~~A convenience fee may be charged by the online processing vendor in an amount determined by the processor.
(o)~~(x) Review by Board Staff in order to determine whether or not an individual applicant is eligible for licensure or certification relative~~ Conduct a background check to ~~the~~identify barrier offenses ~~listed in OAC 490:10-1-2.1 or other eligibility criteria - $200.00~~ $50.25
~~(y)~~(p) License Application processing fee - $100.00 (valid for one year).
~~(z) Temporary licensure fee - $200.00 (wherein the Executive Director may issue a temporary license, upon request by the applicant and with all requirements being met, expiring at the next Board meeting date when the Board would issue a license, enabling one who is qualified to work while waiting for the next Board meeting).~~

SUBCHAPTER 9. CONTINUING EDUCATION

310:679-9-1. General provisions for continuing education programs [AMENDED]

(a) Continuing education programs requests for credit recognition must be submitted to the Department for approval prior to presentation. ~~In order to receive Board recognition and continuing education credit, continuing education programs shall be submitted to the Board for approval prior to presentation as indicated under this Chapter.~~
(b) The continuing education program is responsible for providing proof of participation and credit amount awarded to each participant. At a minimum, proof of participation must include:
(1) Name of attendee;
(2) Number of clock hour credits;

(3) Subject matter of training; and
(4) Facility type addressed by the training if facility-specific ~~All continuing education programs submitted to the Board for its evaluation and possible 'approval' for purposes of granting Oklahoma continuing education credit hours shall be submitted with a $55.00 per credit hour, non-refundable fee. Approval will be granted only for specific programs for specific dates of presentation. The Board shall waive this fee for programs sponsored by State or federal agencies. Recurring presentations also require Board approval, but may be considered and approved by the Board based upon a report of program changes from the previously-approved program.~~

(c) Administrators shall be responsible for submitting proof of continuing education that meets CE requirements upon renewal. ~~The Board may withdraw approval for continuing education credit should subsequent information come to its attention that program content differed from that approved.~~

(d) ~~Sponsors shall be responsible for obtaining satisfactory documentation of attendance and submission of the attendance records to the Board.~~

~~(e)~~ All programs approved by the National Continuing Education Review Service (NCERS), National Association of Long Term Care Administrator Boards (NAB) that receive a NCERS/NAB approval number will ~~presumptively accepted by the Board for purposes of meeting Oklahoma's annual continuing education requirements.~~ count towards CE requirements with proper documentation.

~~(f) The Board may approve, sponsor and/or conduct its own educational and training programs for continuing education credit if such programs meet the criteria established in this Chapter.~~

~~(g) The Board reserves the right to monitor any and all approved programs.~~

~~(h) Programs that deal specifically with internal affairs of an organization do not qualify for continuing education hours.~~

~~(i) Programs from the Administrator University may qualify for continuing education hours if they meet the criteria outlined in this Chapter and have been so approved by the Board.~~

~~(j)~~ (e) Attendees may be awarded partial credit, at the discretion of the sponsor, for partial participation, late arrival, or early departure from the program. ~~Sponsors, at their discretion, may award partial credit for attendees who they deem have been late, left early, or otherwise not participated in the full activities of the program. The Board approval for a program is for "up to" the number of hours approved and it is the responsibility of the sponsor to judiciously grant credit. This also allows the sponsor to award fewer hours in the event of unplanned changes to a program such as a scheduled speaker being unable to make a presentation.~~

(f) The Department may deny or revoke program approval if the program sponsor fails to issue hours appropriately. ~~Failure to protect the integrity of the hours approved on the part of the sponsor could result in future denial of program approval by the Board.~~

310:679-9-2. Criteria for continuing education programs [AMENDED]

(a) A correctly completed application must be submitted to the Department at least thirty (30) days in advance of the program; ~~In order for the Board to approve a program for continuing education hours, an application shall be completed by the sponsor. and reviewed and approved by the Board.~~

(b) ~~Sponsors shall submit their application to the Board at least 30 days in advance of the program, provided however, should the Board fail to meet through lack of a quorum or other circumstance, the application will be reviewed at the next meeting of the Board and if approved, hours will be awarded retroactively~~.

~~(c)~~ The application shall contain documentation ~~that certifies the following criteria are being met~~demonstrating the following requirements:

(1) The program shall relate to ~~Long Term~~Long-Term Care Administration and be designed to promote continued knowledge, skills and attitudes consistent with current standards in ~~long term~~long-term care administration.
(2) The program shall be designed to assist administrators to improve their professional competencies.
(3) The program shall be open and available to all ~~long term~~long-term care administrators in Oklahoma.
(4) The ~~facility where the program will be conducted shall provide adequate~~program location must be adequately equipped and have enough space to accommodate ~~potential~~ attendees ~~and have the ability to supply the needed equipment~~.
(5) ~~The faculty/instructors~~Instructors must have ~~experience in long term~~long-term care supervision ~~and~~or administration experience, ~~or~~ have ~~expertise in teaching and instructional methods suitable to the subject presented, or~~instructional expertise and/or have suitable academic qualifications in a relevant academic field. ~~and experience for the subject presented.~~
(6) The program objectives must:
(A) have reasonable and clear objectives with defined outcome expectations;
(B) be consistent with the program content; and

(C) identify the mechanism through which they will be taught ~~The learning objectives in the program must be reasonable and clearly stated in behavioral terms which define the expected outcomes for participants.~~

~~(7) The learning objectives must be consistent with the program content and the mechanism by which learning objectives are shared with participants must be identified.~~(7) Clearly stated program methods appropriate to the subject matter with an identified timeframe for teaching concepts. ~~The teaching methods in the program must be clearly stated, must be appropriate to the subject matter, and must allow suitable time.~~

~~(9)~~(8) Instructional aids and resource materials used in the program ~~that will be utilized in the program must be described~~.

~~(10)~~(9) Sponsors are ~~should be~~ qualified in the subject matter presented.

~~(11)~~(10) The registration fee for ~~a~~ the program and the location where the fee will be published on promotional material ~~must be published clearly on promotional material.~~

~~(12) Registration fees may be reviewed by the Board~~.

~~(13) The sponsor must allow the Board to evaluate the program.~~

~~(14)~~(11) The ~~sponsor must provide an~~program evaluation form ~~for each program participant's responses~~.

~~(15) Within 15 days after the conclusion of the program, the sponsor of Board approved programs (not NAB/NCERS approved programs) must provide to the Board a list of participants and a summary of the evaluations for each program. NAB/NCERS approved sponsors will use the NAB CE Registry to report attendees for those programs.~~

~~(16)~~(12) ~~The application presented to the must state the~~The method ~~to be~~ used ~~in certifying~~to capture accurate attendance or on-line completion.

~~(17) To receive full credit, attendees must attend the full program and/or log-in for on-line attendance for the full program. See also 490:1-9-1(j)~~.

~~(18) Partial credit of a minimum of two clock hours may be earned in a divisible program.~~

~~(19)~~(13) ~~Instructional~~Information indicating the instructional hours ~~must be~~are based ~~upon~~on clock hours (60 minutes= ~~1clock~~1 clock hour).

~~(20)~~(14) ~~The~~An agenda ~~must show registration, meal times (not included in credit hours), and a~~showing ~~breakdown of the~~all ~~daily~~ educational activities.

~~(21)~~(15) ~~The maximum number of hours that can be approved or earned shall be seven clock hours per day.~~ No more than seven (7) clock hours included in the program per day. In the event there is a required, onsite, coursework-specific presenter during the lunch hour, eight (8) hours may be included in the program description.

~~(22) The target group for programs shall be long term care administrators and other disciplines related to long term care.~~

~~(23)~~ (16) Licensed administrators who are "presenters" of approved CE programs may receive credit one time annually for the clock hour value of the class(es) they present. If the material is presented multiple times, credit is only awarded once per licensure year for the same educational material.

~~(24)~~(17) Licensed administrators who present in ~~Administrators University (AU) or other~~Board ~~a~~ Department-approved ~~approved~~ entry level training such as Tier 2 ~~RC,RCAL or~~RC/AL, Adult Day Care or ICF/IID-16 initial licensure training, will receive CE credit one time annually for the clock hour value of the material they present.

(18) Providers of continuing education courses must provide the template for the documentation that will be provided to attendees to include, at a minimum, the following requirements:

(A) The name of the attendee;

(B) the number of clock hour credits awarded for the training;

(C) the subject matter of the training; and

(D) if applicable, the type of facility the training addressed.

(19) The Department may revoke approval of a continuing education course if it is determined the course no longer meets continuing education requirements.

310:679-9-3. ~~Approval~~Disapproval of continuing education programs [AMENDED]

(a) ~~In order to be approved, continuing education programs shall be appropriately designed for Long Term Care Administrators and shall meet the criteria outlined in this Chapter.~~ Upon disapproval, the sponsor:

(1) will be notified of missing requirements; and

(2) may submit additional information and/or documentation to address missing requirements.

(b) ~~If a program is disapproved, the sponsor shall be notified in writing of the reasons for rejection within ten (10) working days of the Board's decision.~~ Approved programs will be notified of approval by the Department.

~~(c) If a program is disapproved, the sponsor has 30 days to appeal in writing. The appeal must include a copy of the original application package and any additional information the sponsor feels is needed for further clarification.~~
~~(d) The Board may approve program content or a portion of the program content, even though the same content or a portion of the program content has been previously approved by the Board for the same calendar year.~~

310:679-9-4. Continuing education requirements [AMENDED]

(a) Each licensee shall be responsible for identifying and ~~his own continuing education needs, taking the initiative in~~ seeking continuing professional education requirements. ~~activities to meet those needs, and integrating new knowledge and skills into his duties.~~

(b) ~~Individuals who are newly licensed as a nursing home or ICF/MR administrators or certified as Assistant Administrators are required to successfully complete continuing education hours equivalent to a rate of two (2) hours per month, beginning with the month following the month his license/certificate is issued, for each month he holds the license/certificate during the current licensing year. For certified assistant administrators, this is a condition of employment.~~

~~(1) Individuals who are newly licensed as RC/AL administrators are required to successfully complete continuing education hours equivalent to a rate of one and one-half (1.5) hours per month, beginning with the month following the month their license is issued, for each month they hold the license during the current licensing year.~~

~~(2) Individuals who are newly licensed as RC only administrators are required to successfully complete continuing education hours equivalent to a rate of 1.3 hours per month, rounded up to the next half hour increment (e.g., 1.3 = 1.5; 2.6 = 3), beginning with the month following the month their license is issued, for each month they hold the license during the current licensing year.~~

~~(3) Individuals who are newly licensed as Adult Day Care administrators are required to successfully complete continuing education hours equivalent to a rate of one (1) hour per month, beginning with the month following the month their license is issued, for each month they hold the license during the current licensing year.~~

~~(c)~~ Licensees shall complete Continuing Education Units (CEUs) as follows:

(1) Tier one (1) licensees and certified CAAs shall ~~holding a nursing home administrator license and Certified Assistant Administrators shall successfully~~ complete twenty-four (24) clock hours of ~~continuing education (commonly referred to as~~ CEUs ~~or continuing education units) during~~ each license ~~licensing~~ year. ~~For Certified Assistant Administrators this shall be a condition of employment.~~

~~(1)~~(2) Tier 2 RC/AL administrators shall successfully complete ~~eighteen (18)~~sixteen (16) clock hours of continuing education during each ~~licensing~~license year.

~~(2) Residential Care administrators shall successfully complete sixteen (16) clock hours of continuing education during each licensing year.~~

~~(3)~~(3) Licensed Tier 2 Adult Day Care Administrators shall successfully complete ~~twelve (12)~~sixteen (16) clock hours of continuing education during each license ~~licensing~~ year.

(4) Licensed Tier 2 ICF/IID-16 administrators shall successfully complete sixteen (16) clock hours of continuing education during each license year.

~~(d)~~(c) ~~Licensees/certificate~~ License and certificate holders are responsible for maintaining their own ~~continuing education~~CEU records.

~~(e)~~(d) Required CEUs must be completed within the licensure period.~~Carry-over of continuing education hours earned in one licensing year that were in excess of the hours required for that year to a subsequent licensing year is not permitted.~~

~~(f)~~(e) Credit will only be given once per approved program for each licensure period; duplication of credit for the same course is not permissible in the same licensure year.~~Licensed administrators who have attended and received credit for previously approved program content shall be denied credit for attending subsequent duplicate programs in the same calendar year.~~

~~(g)~~(f) A written request for an extension may be submitted to the Department when a license or certificate holder cannot meet the requirements for continuing education due to illness, emergency, or other hardship. Extension requests will be reviewed by the Department and determinations made on a case-by-case basis.~~A licensee/certificate holder who cannot meet the continuing education requirement due to illness, emergency or hardship may petition the Board, in writing, requesting a waiver of the clock hour requirement. Any such waiver request must be received and acted- upon by the Board. The waiver request shall explain why compliance is not possible, and include appropriate documentation. In the event of more broadly scaled events that, in the judgment of the Board, affect large groups or the whole of the profession, the Board may take action to temporarily alter or waive CE requirements for those larger groups or all licensees for a specified time period.~~

~~(h)~~(g) CEU documentation must be uploaded in the online renewal portal at the time of renewal for review by the Department. Renewal applicants must complete CEUs prior to the Department issuing a renewal to the renewal applicant. ~~In the event a licensee fails to provide the Board, upon request, with documentation that the continuing education requirements have been met, the licensee will be subject tosanction by the Board, which may include suspension or revocation of his license. This is considered a reportable offense on the first offense and will appear as a violation in the Registry and NPDB.~~

~~(i)~~(h) All licensees, even those subject to enforcement action, are required to complete continuing education. ~~A licensee whose license is suspended by the Board for disciplinary reasons is not exempt from the continuing education requirements, and must, therefore, successfully complete the required number of continuing education hours commensurate with his license/certificate type during any licensing year(s) in which his license is under suspension. Licensee shall, upon Board request, furnish documentation that the continuing education requirements have been met. Failure to provide such requested documentation shall subject licensee to sanction by the Board, including further suspension or revocation of his license.~~

~~(j) All CE hours earned for programs approved by the NCERS/NAB or approved by the Board may be utilized by a licensee for purposes of meeting the annual CE requirement in the licensing period in which the hours were earned.~~

(i) Continuing education requirement hours will be required for first year license and certificate holders are:

(1) Tier 1 administrators and certified CAAs shall be required to complete six (6) hours of continuing education for each quarter in which they hold a license.

(2) Licensed Tier 2 administrators shall be required to complete four and a half (4 1/2) hours of continuing education for each quarter in which they hold a license.

310:679-9-5. Auditing of continuing education hours [AMENDED]

~~(a)~~ The ~~Board~~Department may request continuing education information from sponsors of approved programs for audit purposes ~~only~~.

~~(b) The Board does not retain any record of continuing education hours completed by individual administrators except as it may otherwise obtain in its performance of the annual CE compliance audit.~~

~~(c) An annual audit of at least 5% of the total number of each type of administrator will be made to verify compliance with the annual CE requirement. This percentage may be increased at the Board's discretion. If a license is not renewed by the last day of the current licensing year, an audit to verify compliance with the annual CE requirement shall be conducted prior to reinstatement of the license.~~

~~(d) Failure of a licensee to provide verification of continuing education hours completed, if requested by the Board, shall result in disciplinary action against the licensee. The minimum penalty for a first time offense is $50.00 per clock hour not completed and completion of twice the number of clock hours not completed, due within 120 days. These clock hours cannot be applied to the current year's requirements. This is also a NPDB (National Practitioners Data Bank) reportable offense. For a second offense, the penalty will double. Any subsequent offenses shall be referred to the Board for determination of an appropriate penalty which may include suspension or revocation. The Administrator shall be informed in writing prior to the drafting of an order that they may request a formal hearing before the Board in lieu of the "standard" penalty for either the first or second time offense, in which case a formal complaint shall be drafted and the Board shall have a full range of penalty options available to them, to include suspension and revocation. These automatic penalties for the first and second offense do not require Board approval; however, any variation from this "standard" will require Board approval. A formal complaint and appropriate order will still be drafted by the Board's attorney and the action taken shall be reported to the Board.~~

SUBCHAPTER 10. ~~LONG~~ LICENSING OF LONG-TERM CARE ADMINISTRATORS [AMENDED]

PART 1. LICENSING OF LONG-TERM CARE ADMINISTRATORS [AMENDED]

310:679-10-1. Purpose [REVOKED]

~~This Chapter has been adopted for the purpose of complying with the provisions of the Administrative Procedures Act. This Chapter implements the specific rules for licensing administrators serving in the following facility types:~~

~~(1) Nursing facilities and specialized facilities licensed pursuant to 63 O.S. Section 1-1901 et seq., including but not limited to specialized facilities for persons withmental retardation, developmental disabilities or Alzheimer's disease; and~~

~~(2) Continuum of Care facilities or Assisted Living Center (ALC) licensed pursuant to 63 O.S. Section 1-890.1 et~~

~~seq.~~
~~(3) Residential Care Homes licensed pursuant to 63 OS Section 1-819 et seq.~~
~~(4) Adult Day Care Centers licensed pursuant to 63 OS Section 1-870 et seq.~~

310:679-10-2. Definitions [REVOKED]

~~Definitions set forth in Chapter 1 of this Title shall also apply to this Chapter.~~

310:679-10-2.1. General requirements ~~that must be met by each applicant~~for licensure [AMENDED]

(a) Applicants ~~shall not be less than~~must be at least twenty-one (21) years of age at the time the license is issued.
(b) ~~Each applicantshall~~Applicants must be a United States citizen, or ~~be~~ a qualified alien under the Federal Immigration and Naturalization Act and lawfully residing in the United States. An affidavit of lawful presence must be submitted with the application.
(c) Each administrator applicant must establish ~~to the satisfaction of the Board~~ that the applicant is of reputable and responsible character and otherwise suitable and qualified to serve because of training or experience in institutional administration. Each provisional applicant must be of good character, otherwise suitable, and meet any other standards established.
(d) A background check will be conducted on each applicant. ~~Each applicant shall submit to a criminal background check.If~~The Department will not issue or renew a license to any applicant if the results of a criminal background check reveal ~~that~~ the applicant has been convicted of or pleaded guilty or *nolo contendere*~~to any felony or to any misdemeanor involving moral turpitude, the individual's application for licensure may be disapproved.~~or no contest, or received a deferred sentence for any felony or misdemeanor offense for any of the following offenses in any state or federal jurisdiction: ~~jurisdiction, the Board shall not issue a license or renew a previously issued license to this person and employers shall not hire or contract with the person:~~

(1) abuse, neglect or financial exploitation of any person entrusted to the care or possession of such person,
(2) rape, incest or sodomy,
(3) child abuse,
(4) murder or attempted murder,
(5) manslaughter,
(6) kidnapping,
(7) aggravated assault and battery,
(8) assault and battery with a dangerous weapon, or
(9) arson in the first degree.

(e) The Department will not issue or renew a license for any applicant if ~~If~~ less than seven (7) years have ~~elapsed~~passed since the completion of sentence ~~(meaning the last day of the entire term of the incarceration imposed by the sentence including any term that is deferred, suspended or subject to parole)~~, and the ~~results of a~~ criminal history check ~~reveal~~reveals ~~that the subject person~~the applicant has been convicted of, or pled guilty or nolo contendere or no contest to, a felony or misdemeanor offense for any of the following offenses ~~offenses,~~ in any state or federal jurisdiction: ~~jurisdiction,the Board shall not issue a license or renew a previously issued license to this person and employers shall not hire or contract with the person:~~

(1) assault,
(2) battery,
(3) indecent exposure and indecent exhibition, except where such offense disqualifies the person as a registered sex offender,
(4) pandering,
(5) burglary in the first or second degree,
(6) ~~robber~~robbery in the first or second degree,
(7) ~~robber~~robbery or attempted robbery with a dangerous weapon, or imitation firearm,
(8) arson in the second degree,
(9) unlawful manufacture, distribution, prescription, or dispensing of a Schedule I through V drug as defined by the Uniform Controlled Dangerous Substance Act ~~(noting that "possession" of a Schedule I through V drug as defined by the Uniform Controlled Dangerous Substance Act is no longer a barrier offense)~~,
(10) grand larceny, or
(11) petit larceny or shoplifting.

(f) To be eligible for a license, applicants must be able to effectively communicate with all individuals and entities related to all required administrator functions.~~Each applicant shall report to the Board any adverse action taken by any licensing or certification entity in any jurisdiction. The Board shall examine the reasons for the action(s) and may consider this information in granting or denying a license. The applicant is required to report all jurisdictions where they've held a license and/or applied for licensure and been denied. Licensure denial is an adverse action and is required to be reported to the NPDB.~~

(g) ~~Each applicant shall be in compliance with State income tax requirements pursuant to 68 O.S., 238.1.~~ Each applicant must meet all other requirements prescribed by the Department.

~~(h)Each applicant shall remit any and all required fees associated with obtaining a license, including any outstanding fees or fines.~~

~~(i)Each applicant must have a working ability in the English language sufficient to communicate, both orally and in writing, with residents, family members, employees, the general public, and representatives of State and federal agencies and to engage in the practice of long term care administration.~~

~~(j)~~(h) ~~Each applicant shall meet all other appropriate conditions and requirements as may be prescribed by the Board.~~ Each applicant must disclose, for the Department to consider when making a determination on the issuance of a license, all other jurisdictions in which:

(1) A license has been applied for;

(2) A license has been issued; and

(3) Any disciplinary or enforcement action taken by another licensing authority.

~~(k)(i)When the Board denies an application for licensure, the Board will not reconsider such denial. A person cannot reapply for licensure until one year of the date of denial~~The required fee and a correctly completed application form demonstrating all requirements are met must be submitted to the Department by the applicant before a license may be issued.

~~(l)~~(j)~~The application shall be considered incomplete until all requirements have been met, to include any additional requirements prescribed by the Board for each license type. Board conducted training includes Administrator University and any initial qualification training such as the optional reviews for exams or Adult Day Care training. Approved initial qualification training conducted externally, such as training approved for RC or RCAL licensure, is not considered "Board conducted" and those applicants have to meet the prerequisites prior to testing or attending any "Review" courses the Board may offer.~~ The Department will notify the applicant when an application is missing any requirements. An applicant may submit additional documentation demonstrating compliance with licensure requirements for the Department to review. If an applicant is not eligible for a license, the Department will issue a denial letter specifying the reasons for the denial. Licensing denials will be reported to NPDB.

~~(m)~~(k)~~In accordance with the requirements detailed at 59 O.S. 4100.4(A), it shall be incumbent upon the applicant to bring any equivalent education, training and experience completed while in the Armed Forces to the attention of OSBELTCA staff during the application process. The staff shall accept and apply satisfactory evidence of this equivalent education, training and experience in a manner most favorable to the satisfying qualification requirements of the license and/or approval for license examination(s).~~ In accordance with 59 O.S. 4100.4(A) The Department will review education, training, and experience completed by the individual as a member of the Armed Forces or Reserves of the United States, National Guard of any state, or the Naval Militias of any state, and apply it in the manner most favorable toward satisfying the qualifications of issuance of the requested license or certification or approval for license examination in this state.

~~(n)~~(l) In accordance with 59 O.S. 4150.1, the Department will honor the requirements in the Universal Licensing Act.

310:679-10-3. ~~Requirements for initial licensure for nursing/skilled nursing facility (includes ICF/IID) administrator (also known as nursing home administrator)~~Tier 1 administrator requirements [AMENDED]

(a) ~~In addition to the general requirements found in this Chapter, each applicant for initial licensure shall meet the requirements in this Section.~~ Applicants must meet all general requirements for licensure.

(b) Each applicant ~~shall~~must provide documentation demonstrating the successful completion ~~provide, or shall cause to be provided, written evidence satisfactory to the Board~~ of one of the following:

(1) Baccalaureate degree from an institution of higher education; or ~~"Official Proof" [see 490:10-3-1.1. (relating to evidence requirements)] of successful completion of a formal program or program(s) of study, wherein applicant received, at a minimum, a bachelor's degree:~~

~~(A) applicant received a bachelor's degree from a college or university accredited by one of the regional accreditation organizations recognized by the U.S. Department of Education and the Board if the applicant's degree is from a school domiciled in the United States; or~~

~~(B) if the applicant received his degree from a college or university domiciled outside the United States [and, as such, the college/university does not fall under the accreditation purview of any of the six (6) regional accreditation organizations recognized by the U.S. Department of Education and by the Board], applicant shall, at applicant's expense, cause a degree equivalency evaluation of his degree to be performed and the results sent directly to the Board. The Board shall assess the results of this degree equivalency evaluation and, at its sole discretion, determine if applicant's education and/or degree are equivalent, at a minimum, to a bachelor's degree earned from a regionally accredited college or university;~~

(2) Associate degree in a health- or business-related field or other relevant field and not less than five (5) years of experience in upper-level management of a long-term care facility.

(c) Unless granted a waiver for one or more of the requirements, applicants must successfully complete the following within twenty-four (24) months of submitting an application for initial licensure:

(1) A Department or NAB-approved training;

(2) The required internship; and

(3) Passing score on the following required examinations:

(A) The Oklahoma State Standards examination;

(B) The NAB Core examination; and

(C) The NAB NHA Line of Service examination;

(d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms.

(e) A waiver for the required training may be granted by the Department if:

(1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or

(2) the applicant was previously licensed in Oklahoma as a Tier 1 administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or

(3) the applicant provides evidence of the completion of a training that meets or exceeds NAB recommendations for training from another jurisdiction.

(f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.

(g) An applicant with a verified HSE qualification may be issued a license upon submission of correctly completed application with the required application fee once the applicant has passed the State Standards examination and has had a favorable background check completed.

~~(2) Receipt of a passing score on the national "NAB" NHA examinations (Core and NHA Line of Service (LOS)) conducted by the National Association of Long Term Care Administrator Boards (NAB) as discussed in paragraph 10-3-2 of this document.~~

~~(3) Receipt of a passing score on the Oklahoma State Standards examination within the twenty-four (24) months preceding the month in which the Board will be taking action to license the applicant, and if applicant is not licensed during this 24-month time period, applicant will have to pay all required fees and re-take the examination prior to any future licensing attempts;~~

~~(4) Successful completion of Administrator University or a presumptively approved NAB-approved entry level course for Nursing Home Administrators within the twenty-four (24) months preceding the month in which the Board will be taking action to license the applicant, and if applicant is not licensed during this 24-month time period, applicant will have to pay all required fees and re-take Administrator University prior to any future licensing attempts (if the candidate has a degree in long term care administration from an institution accredited by NAB, the Administrator University may be waived);~~

~~(5) Successful completion of the Administrator-in-Training (AIT) program (or documentation of an equivalent internship as part of a degree in long term care from an institution accredited by NAB) within the twenty-four (24) months preceding the month in which the Board will be taking action to license the individual, and if applicant is not licensed during this 24-month time period, applicant will have to pay all required fees and complete another AIT program prior to any future licensing attempts; and;~~

~~(6) Payment of the required fee(s).~~

~~(7) An applicant with the HSE credential/qualification will have been verified through/by NAB. This means the Board has been assured by NAB that the applicant has:~~

~~(A) met or exceeded the minimum education requirement,~~

~~(B) passed the NAB NHA exam as well as the NAB RCAL exam and NAB HCBS exam and~~

~~(C) met or exceeded the requirement for AU and AIT, either by experience or education, and shall only be required to take and pass our State Standards examination and pay the required fees to be licensed as a NHA in Oklahoma.~~

~~(c)~~(h)The ~~Board~~ Department~~, at its sole discretion,~~ may waive the ~~Administrator University~~administrator training requirement, the internship requirement, ~~and/or the Administrator-in-Training requirement~~or both if the applicant was previously licensed in Oklahoma as a ~~long term~~long-term care administrator, was in good standing with the ~~Board~~Department while applicant was previously licensed in Oklahoma, and has been active in ~~long term~~long-term care for at least two (2) of the last five (5) years.

~~(d) After the Board's staff has determined that all requirements for initial licensure have been met, an applicant may apply for a "temporary" license. The Executive Director may review and approve or disapprove issuance of a temporary license after an application has been made and additional licensure fees paid. An approved temporary license shall expire at the next regularly scheduled meeting of the Board when the application for licensure (no longer temporary) must be approved or disapproved by the Board.~~

310:679-10-3.1. ~~Requirements for initial licensure for residential care/assisted living (RC/AL) administrators~~Tier 2 (RC/AL) administrator requirements [AMENDED]

(a) ~~In addition to the general requirements found in this Chapter, each applicant for initial licensure as an RC/AL administrator shall meet the requirements in this Section.~~Applicants must meet all general requirements for licensure. Administrators holding ~~an RC/AL~~a Tier 2 RC/AL license may serve as an administrator in either an RCF or ALF.

(b) Each applicant for initial licensure as ~~an~~a Tier 2 RC/AL administrator shall provide documentation of one of the following:~~, or shall cause to be provided, written evidence satisfactory to the Board of receipt of a high school diploma (or GED) or a higher level of education. When the applicant is providing proof of education beyond high school or GED, the same level of "proof" detailed in paragraph 10-1-3(b) is required.~~

(1) high school diploma;

(2) GED; or

(3) a higher level of education.

(c) ~~Each~~Unless an applicant qualifies for a waiver as outlined in 310:679-10-3, the applicant ~~for initial licensure as a RC/AL administrator shall provide, or shall cause to be provided, written evidence satisfactory to the Board of the following:~~must successfully complete and pass:

(1) Department or NAB-approved training;

(2) The required internship; and

(3) Passing scores on the following required examinations:

(A) The Oklahoma RCAL State Standards examination:

(B) The NAB RCAL Lines of Service examination; and

(C) The NAB Core examination.

~~(1) Current training certification, where "current" is defined as being completed within the twenty-four (24) months preceding the month in which the Board will be taking action to license the individual:~~

~~(A) through training from an institution of higher learning whose program has been approved by the Board, to include presumptively approved NAB approved entry level courses completed within 24 months prior to licensure; or~~

~~(B) receipt of a nationally recognized assisted living certificate of training and competency for assisted living administrators that has been reviewed and approved by the Board;~~

~~(C) Sources of certification are required to be reviewed and approved by the Board. Approved training sources shall include an expiration date on their certification which shall be two years after the date of the completion of their training.~~

~~(D) Applicants for training shall provide or cause to be provided to the approved training entity evidence that they have met at least one of the following pre-requisites to enter training:~~

~~(i) At least one (1) consecutive year of health care experience, OR~~

~~(ii) At least thirty (30) college semester hours in a healthcare related field of study, OR~~

~~(iii) A Bachelor's degree in any field of study.~~

~~(2) Receipt of a passing score on the Oklahoma State Standards examination for RC/AL administrators within the twenty-four (24) months preceding the month in which the Board will be taking action to license the applicant, and if applicant is not licensed during this 24-month time period, applicant will have to pay all required fees and re-take the examination prior to any future licensing attempts;~~

~~(3) Receipt of a passing score on the national "NAB" RC/AL examinations (Core and RCAL Line of Service (LOS)) conducted by the National Association of Long Term Care Administrator Boards (NAB) as discussed in paragraph 10-3-2 of this document, and~~
~~(4) Payment of the required fee(s).~~
~~(5) Training certification required in (c) (1) above is a prerequisite to being able to take the State Standards examination; a passing score on the State Standards exam is a prerequisite to take the NAB RC/AL Exam.~~

(d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms. ~~(d) The Board, in its sole discretion, may waive re-completion of the training requirement if the applicant was previously licensed in Oklahoma as an RC/AL administrator, was in good standing with the Board while applicant was previously licensed in Oklahoma, and has been active in long term care for at least two (2) of the last five (5) years.~~

~~(e) After the Board's staff has determined that all requirements for initial licensure have been met, an applicant may apply for a "temporary" license. The Executive Director may review and approve or disapprove issuance of a temporary license after an application has been made and additional licensure fees paid. An approved temporary license shall expire at the next regularly scheduled meeting of the Board when the application for licensure (no longer temporary) must be approved or disapproved by the Board.~~

(e) A waiver for the required training may be granted by the Department if:

(1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or
(2) the applicant was previously licensed in Oklahoma as a Tier 2 RCAL administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or
(3) the applicant provides documentation showing adequate experience in the field of institutional administration that is applicable to long-term care administration.

(f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.

310:679-10-3.3. ~~Requirements for initial licensure for residential care (RC) administrators~~Tier 2 ICF/IID-16 administrator requirements [AMENDED]

(a) ~~In addition to the general requirements found in this Chapter, each applicant for initial licensure as an RC administrator shall meet the requirements in this Section.~~Applicants must meet all general requirements for licensure. Administrators holding ~~an~~a Tier 2 ~~RC~~ ICF/IID-16 license may serve as an administrator in an ~~RCF~~ ICF/IID-16 facility. ~~and may not serve in any other facility type~~.

(b) Each applicant for initial licensure as ~~an~~a Tier 2 ~~RC~~ ICF/IID-16 administrator shall provide~~, or shall cause to be provided, written evidence satisfactory to the Board of receipt of a high school diploma (or GED) or a higher level of education. When the applicant is providing proof of education beyond high school or GED, the same level of "proof" detailed in paragraph 10-1-3(b)is required.~~ documentation of one of the following:

(1) high school diploma;
(2) GED; or
(3) a higher level of education.

(c) Unless an applicant qualifies for a waiver as outlined in 310:679-10-3 they must successfully complete the following:

(1) Department-approved training;
(2) The required internship; and
(3) Passing scores on the following required examinations:
(A) The Oklahoma ICF/IID-16 State Standards examination; and
(B)The NAB Core examination;

(d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms.~~Each applicant for initial licensure as a RC administrator shall provide, or shall cause to be provided, written evidence satisfactory to the Board of the following:~~

~~(1) Current training certification (completed within the twenty-four (24) months preceding the month in which the Board will be taking action to license the individual) through training from an institution of higher learning whose program has been approved by the Board, to include presumptively approved NAB-approved entry level courses completed within 24 months prior to licensure;~~

~~(2) Receipt of a passing score on the Oklahoma State Standards examination for RC administrators within the twenty-four (24) months preceding the month in which the Board will be taking action to license the applicant, and if applicant is not licensed during this 24-month time period, applicant will have to pay all required fees and re-take the examination prior to any future licensing attempts;~~
~~(3) Receipt of a passing score on the "NAB" Core examination conducted by the National Association of Long Term Care Administrator Boards (NAB) as discussed in paragraph 10-3-2 of this document;~~
~~(4) Payment of the required fee(s).~~
~~(5) Training certification required in (c)(1) above is a prerequisite to being able to take the State Standards examination.~~
~~(c) After the Board's staff has determined that all requirements for initial licensure have been met, an applicant may apply for a "temporary" license. The Executive Director may review and approve or disapprove issuance of a temporary license after an application has been made and additional licensure fees paid. An approved temporary license shall expire at the next regularly scheduled meeting of the Board when the application for licensure (no longer temporary) must be approved or disapproved by~~
~~the Board.~~(e) A waiver for the required training may be granted by the Department if:
(1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or
(2) the applicant was previously licensed in Oklahoma as a Tier 2 ICF/IID-16 administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or
(3) the applicant provides evidence of the completion of a training that meets or exceeds NAB recommendations for training from another jurisdiction.
(f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.

310:679-10-3.5. ~~Requirements for initial licensure for adult day care (ADC) administrators~~Tier 2 Adult day care administrator requirements [AMENDED]
(a) In addition to the general requirements found in this Chapter, each applicant for initial licensure as an ADC administrator shall meet the requirements in this Section. Applicants must meet all general requirements for licensure. Administrators holding a Tier 2 ADC license may serve as an administrator in an ADC facility.
(b) Each applicant for initial licensure as ~~an~~a Tier 2 ADC administrator shall provide ~~for initial licensure as an ADC administrator shall provide~~ documentation of one of the following:
(1) high school diploma;
(2) GED; or
(3) a higher level of education.
~~(1) One of the following:~~
~~(A) A high school diploma (or GED) AND five (5) consecutive years supervisory experience (full-time or equivalent) in a long term care or geriatric setting; OR~~
~~(B) A Bachelor's degree AND one (1) year of supervisory experience, preferably in a social or health services setting; Each applicant for initial licensure as an ADC administrator under this provision shall provide, or shall cause to be provided, written evidence satisfactory to the Board of receipt of Bachelor's degree. The same level of "proof" detailed in paragraph 10-1-3(b) is required; OR~~
~~(C) An active Oklahoma Nursing license (either LPN or RN), in good standing, and two years of nursing experience.~~
~~(2) Successful completion of Board approved training for adult day care administrators (completed within the twenty-four (24) months preceding the month in which the Board will be taking action to license the individual), to include presumptively approved NAB-approved entry level courses~~
~~completed within 24 months prior to licensure;~~
~~(3) Receipt of a passing score on the Oklahoma State Standards examination for adult day care administrators within the twenty-four (24) months preceding the month in which the Board will be taking action to license the applicant, and if applicant is not licensed during this the twenty-four (24) month time period, applicant will have to pay all required fees and re-take the examination prior to any future licensing attempts;~~
~~(4) Receipt of a passing score on the "NAB" Core examination conducted by the National Association of Long Term Care Administrator Board (NAB) as discussed in paragraph 10-3-2 of this document, and~~
~~(5) Payment of the required fee(s).~~

~~(c) After the Board's staff has determined that all requirements for initial licensure have been met, an applicant may apply for a "temporary" license. The Executive Director may review and approve or disapprove issuance of a temporary license after an application has been made and additional licensure fees paid. An approved temporary license shall expire at the next Board meeting when the application for licensure (no longer temporary) must be approved or disapproved by the Board.~~

(c) Unless an applicant qualifies for a waiver as outlined in 310:679-10-3, the applicant must successfully complete and pass:

(1) Department-approved training;

(2) The required internship; and

(3) Passing scores on the following required examinations:

(A) The Oklahoma ADC State Standards examination; and

(B)The NAB Core examination;

(d) An applicant's training instructor must attest to the readiness of an applicant prior to the student being eligible to take the examination. Instructors must provide the Department with all signed student attestation forms.

(e) A waiver for the required training may be granted by the Department if:

(1) the applicant has a degree in long-term care administration from a NAB-accredited institution; or

(2) the applicant was previously licensed in Oklahoma as a Tier 2 ADC administrator, was in good standing with the Department while previously licensed in Oklahoma, and has been active in long-term care for at least two (2) of the last five (5) years; or

(3) the applicant provides documentation showing adequate experience in the field of institutional administration that is applicable to long-term care administration.

(f) A waiver for the required internship may be granted by the Department if the applicant presents documentation of an internship that meets or exceeds NAB recommendations for internship requirements.

310:679-10-4. ~~Requirements for licensure by endorsement for long term care administrators~~Endorsement and reciprocity requirements [AMENDED]

(a) Applicants must meet all general requirements for licensure. ~~In addition to the general requirements found in this Chapter, each applicant for licensure by interstate endorsement as a long term care administrator shall meet the requirements of this Section.~~

(1) The ~~Board~~ Department ~~permits licensure for candidates for Nursing Home Administrators and RCAL administrators~~may endorse a candidate for licensure reciprocity from other jurisdictions ~~who have met the following minimum requirements:~~ when the applicant has submitted documentation with evidence meeting the following requirements:

(A) Proof of successful completion of a formal program of study;

(B) Proof of passing score on applicable NAB examination(s);

(C) Copy of current license(s) from other jurisdictions;

(D) Proof of full-time service as administrator-of-record for the past two (2) consecutive years or service as licensed administrator for the specific license type the applicant is applying for at least two (2) of the last three (3) years;

(E) Disclosure of any pending or past disciplinary actions, enforcements, investigations, reprimand, suspension, and revocation or voluntary surrender of license(s); and

(F) Attestation to the truthfulness of information provided;

~~(A) Submission to the Board of "Official Proof" of successful completion of a formal program(s) of study and, at a minimum, receipt of a bachelors degree that meets the requirements set forth in 490:10-1-3;~~

~~(B) Submission to the Board of evidence of current licensure, in good standing, as a long term care/nursing home administrator, and submission of proof that applicant has:~~

~~(i) served full time as the administrator-of-record for the past two (2) consecutive years in a jurisdiction regulated by a licensing authority.; or~~

~~(ii) been active as a licensed nursing home administrator in a jurisdiction regulated by a licensing authority for at least two (2) of the past three (3) consecutive years;~~

~~(C) Submission to the Board of proof of initial licensure as a long term care/nursing home administrator, including active NAB NHA Exam scores, and proof that such license is in ;~~

~~(D) Submission to the Board of full disclosure of any/all pending disciplinary actions or current investigations against applicant as well as any sanctions imposed against applicant's long term care/nursing home administrator license or against any professional license he presently holds or has ever held in any other State or jurisdiction, including, but not limited to: revocation; suspension; 'voluntary surrender'; other licensure restriction(s) that limited applicant's practice under such license; or the assessment of monetary penalties or fines or the assessment of additional CEUs by the licensing entity as a result of disciplinary proceedings. Loss of a professional license due to nonrenewal or failure to obtain the required number of annual CEU hours is excepted from the full and complete disclosure otherwise required herein;~~

~~(E) Documentation related to current or previous licensure shall be submitted directly to the Board by the state-appointed authority(ies) regulating the respective license(s) OR by NAB when the applicant has the HSE credential/qualification; and~~

~~(F) Payment of the required fee(s).~~

(2) The ~~Board~~ Department~~, in its sole discretion, shall assess the magnitude of any disciplinary action taken by other licensing authorities in its determination of applicant's eligibility for an Oklahoma license.~~ will determine if past actions by regulatory authorities disqualify an applicant from eligibility for Oklahoma licensure in alignment with standards and requirements for Oklahoma licensure.

~~(3) In accordance with provisions detailed in 59 O.S. 4100.5(B) and (C), the Board will expedite the approval process for endorsement applicants where the license requirements of the other state are substantially equivalent to Oklahoma requirements. All applicants determined eligible for Oklahoma licensure by endorsement, the spouse of an active duty military member, a spouse subject to a military transfer or someone who left employment in another state to accompany the person's spouse to Oklahoma shall be required to sit for and receive a passing score on the Oklahoma State Standards examination and pay the required license fee before a license is granted by the Board through approval of the Executive Director. Only those applicants to whom this applies with a record of any form of disciplinary action by another licensing authority or any other possible negative indicator shall be required to be approved by a vote of the Board. It shall be the sole responsibility of the applicant to notify staff if this expedited pathway to licensure per Title 59 provisions applies to them and to provide satisfactory evidence of the same. A Temporary License may be issued (fees shall not be waived) for those to whom this applies, at their request, upon a complete application and all qualifications being met except having passed the applicable State Standards Examination. The Temporary license shall expire after no more than sixty (60) days from the date of issuance and may only be issued one time per applicant.~~

(b) ~~In addition to the general requirements found in this Chapter, each applicant for licensure by interstate endorsement as a residential care/assisted living (RCAL) administrator shall meet the requirements of this Section.~~

~~(1) The Board permits licensure for candidates for RCAL Administrators from other jurisdictions who have met the following minimum requirements.~~

~~(A) Submission to the Board of "Official Proof" of successful completion of a formal program(s) of study and, at a minimum, receipt of a high school diploma; meeting the requirements of proof for a bachelors degree meeting the requirements set forth in 490:10-1-3 exceeds the high school diploma minimum requirement.;~~

~~(B) Submission to the Board of evidence of current licensure, in good standing, as a long term care/RCAL administrator, and submission of proof that applicant has:~~

~~(i) served full time as the administrator-of-record for the past two (2) consecutive years in a jurisdiction regulated by a licensing authority.; or~~

~~(ii) been active as a licensed RCAL administrator in a jurisdiction regulated by a licensing authority for at least two (2) of the past three (3) consecutive years;~~

~~(C) Submission to the Board of proof of initial licensure as a long term care/RCAL administrator, including active NAB RCAL Exam scores, and proof that such license is in good standing with that licensing authority;~~

~~(D) Submission to the Board of full disclosure of any/all pending disciplinary actions or current investigations against applicant as well as any sanctions imposed against applicant's long term care/RCAL administrator license or against any professional license he presently holds or has ever held in any other State or jurisdiction, including, but not limited to: revocation; suspension; 'voluntary surrender'; other licensure restriction(s) that limited applicant's practice under such license; or the assessment of monetary penalties or fines or the assessment of additional CEUs by the licensing entity as a result of disciplinary proceedings. Loss of a professional license due to nonrenewal or failure to~~

~~obtain the required number of annual CEU hours is excepted from the full and complete disclosure otherwise required herein;~~
~~(E) Documentation related to current or previous licensure shall be submitted directly to the Board by the state-appointed authority(ies) regulating the respective license(s); and~~
~~(F) Payment of the required fee(s).~~

~~(c) There is typically no licensure by endorsement allowance for licensure for the RC license or the Adult Day Care License. All out of state licensure applications for these licensure types (except NHAs from other states applying for one these licenses) shall be treated as initial licensures with the exception of individuals who previously passed a required NAB sanctioned exam, shall not be required to re-take that exam, however these individuals must provide proof of having passed that exam if/when required to meet Oklahoma licensure requirements. However, a person licensed in another jurisdiction as a NHA or equivalent but who does not have a bachelor's degree may be eligible to apply for the RCAL, RC or Adult Day Care Administrators license (or to be certified as a CAA) in Oklahoma if they have met all other requirements (experience, license in good standing, NAB scores, fees paid).~~

~~(d)In accordance with requirements detailed in 59 O.S. 4100.5(A), it shall be incumbent on the applicant to notify OSBELTCA Staff during the application process if the applicant is the spouse of a military service member on active duty in Oklahoma, or is claiming permanent residency in the state for six (6) months prior to active duty or during the period of active duty. Staff will expedite the process to the extent possible. Approval of the license will be in accordance with OAC 490:10-1-4(a)(4) above.~~ The applicant shall indicate on the licensure application if applying under the 59 O.S. 4100.5 et seq military reciprocity pathway. The Department will comply with all military reciprocity requirements.

(c) Endorsement will be given to the applicant by the Department if the reciprocity process shows the applicant completed substantially equivalent requirements in the state in which they are currently licensed.

310:679-10-4.1. Requirements for registration for licensure reciprocity for long term care administrators [REVOKED]

~~(a) In addition to the general requirements found in this Chapter and upon the applicant fully proving eligibility for licensure by endorsement (they must meet all the same requirement as outlined in 10-1-4), each applicant registering their license from another state to work in Oklahoma with that license shall be required to pay an application fee to begin the process of registering their out-of-state license in Oklahoma. Registrants will be required to agree to comply with and culpable for Oklahoma and federal laws applicable to the facilities where they are employed as well as for the laws applicable to licensed Oklahoma long-term care administrators. Upon receipt of the required documents, and receipt of a registration fee equivalent to the licensure fee, the Executive Director may approve the registration so long as there are no negative indicators, or otherwise the application will have to be approved by the Board (similar to the licensure by endorsement process).~~

~~(b) Renewals of the registrations will also followsimilar procedures to licensure renewals expiring at the end of the calendar year and being renewed with a renewal fee equivalent to licensure fees.~~

~~(c) Should the original license lapse or be vacated for any reason, the registration for use in Oklahoma will be considered invalidated.~~

~~(d) Any violations of Oklahoma law as determined by the Board through the probable cause process can result in the same penalties as well as being reported to the NPDB and/or the jurisdiction where the original license(s) is/are held.~~

310:679-10-5. ~~Requirements for a provisional license as a nursing home administrator or residential care/assisted living (RC/AL) administrator~~Provisional license requirements [AMENDED]

(a) ~~To fill a position of administrator that unexpectedly becomes vacant, the Board~~The Department may grant one (1) provisional license for a single period not to exceed six (6) months to fill an unexpected vacancy at a facility. ~~The~~Once a provisional license has been granted, the Department may not grant additional provisional licenses for the same facility within a one-year period of issuance. ~~shall not grant another provisional license to fill a vacancy at the same facility for a period of one year after the date the provisional license is granted.~~

(b) Provisional license applicants must meet all general licensure requirements outlined in OAC 310:679-10-2.1. ~~In addition to the general requirements found in this Chapter each applicant for a provisional license shall meet the requirements of this Section.~~

(c) A provisional license may be granted to a person who ~~does~~ may not meet all ~~of the licensing~~training and testing requirements established by the ~~Board~~ Department, but who:

(1) ~~For a provisional nursing home administrator license, has~~Has successfully completed a formal program(s) of study and~~, at a minimum, received~~holds a bachelor's degree ~~that meets the requirements set forth in 490:10-1-3(b)(1)(A) or (B)~~;

(2) Has ~~obtained the services of a~~documentation that a currently-licensed Oklahoma ~~long term~~long-term care administrator, with a minimum of two (2) years experience as a licensed administrator in Oklahoma in the same facility type as the provisional licensee, ~~to~~will act as an on-site consultant to the provisional licensee;
(3) Has provided ~~the Board with satisfactory evidence indicating he has~~documentation showing at least two (2) years ~~of~~ experience in a ~~long term~~long-term care facility;
(4) Has received a passing score on the current applicable Oklahoma State Standards examination; ~~and~~
(5) Has ~~paid the required fee(s)~~ submitted a correctly completed application; and
(6) Paid the applicable application fee.

(d) A provisional license shall not be issued to a current AIT ~~and/or AU student~~ unless ~~that student/AIT had~~the applicant previously passed the NAB NHA exam.

~~(c) The consultant administrator to a provisional licensee must have been employed as an administrator in a comparable long term care facility in Oklahoma for a minimum of the last two (2) years.~~

~~(f)~~(e) The consultant administrator to a provisional licensee shall:

(1) Provide direct supervision of the provisional licensee for at least eight (8) hours per week with no more than 10 calendar days lapsing between consultant visits to the provisional licensee's facility; ~~and~~
(2) ~~Submit monthly evaluation reports on the provisional licensee to the Board~~no later than the tenth day of ~~each month for the duration of the provisional license~~ Alert the Department within 3 days if the provisional licensee is unable to fulfill the administrator requirements; and~~.~~
(3) Notify the Department if they are no longer able to provide supervision to the provisional licensee.

310:679-10-5.1. Requirements for a provisional license as a residential care administrator [REVOKED]

~~There is no provisional license provision for residential care administrators.~~

310:679-10-5.2. Requirements for a provisional license as an adult day care administrator [REVOKED]

~~There is no provisional license provision for adult day care administrators.~~

310:679-10-6. ~~Requirements for restoration from suspended status~~Restoration of a suspended license or certificate [AMENDED]

~~(a)~~ A suspended license or certificate may be restored once all conditions for restoration have been met. ~~In addition to the general requirements found in this Chapter, each applicant for restoration of a suspended license shall meet the requirements in this Section.~~

~~(b) Individuals seeking restoration of a license that has been suspended must petition and appear, in person, before the Board and provide the Board with written documentation that he has complied with all terms of the suspension.~~

~~(c) The Board, in its sole discretion, may restore a suspended license after the suspension time has elapsed, upon submission of evidence satisfactory to the Board that the conditions responsible for the suspension no longer exist and that no other reasons exist which warrant continued suspension.~~

~~(d) Evidence shall include complete documentation attested to under oath and by witnesses of facts that indicate that the conditions responsible for the suspension no longer exist. Letters of recommendations from employees, officers of courts, or respected members of the individual's community may also be submitted.~~

~~(e) Petitioners who have been suspended may be required to complete continuing education hours (in addition to those required for license renewal), and/or specific Administrator-In-Training (AIT) modules, and/or the portions of or the entire Administrator University curriculum at the discretion of the Board, at the expense of the applicant.~~

~~(f) Petitioners who were suspended but allowed their license to lapse while suspended or while pending adjudication of a case that resulted in suspension shall be required, at the time of their petition for reinstatement, to pay the renewal fees for every year they did not renew. If they are unable to show documented proof of completion of the continuing education requirements for the entire period of their suspension, they shall also be subject to the provisions of OAC 490:1-9-5(d) except that the penalty must be complied with (CE accomplished and fines paid) prior to the Board reviewing the petition for reinstatement. The license may however be removed from the former lapsed status and returned to suspended status (requiring annual renewal and annual completion of CE requirements) but meeting these requirements does not obligate the Board to reinstate the license.~~

PART 3. APPLICATION FOR LONG-TERM CARE ADMINISTRATOR LICENSURE [AMENDED]

310:679-10-10. Application ~~for initial licensure, licensure by endorsement, or provisional license~~timeline [AMENDED]

(a) ~~Each applicant for licensure as a long term care administrator shall make a verified application on a form furnished by the Board stating the license type for which he is applying and remit a non-refundable application fee as prescribed by the Board at OAC 490:1-7-2.~~
~~(b) An application for initial license or for a provisional license is valid concurrent with the time constraints set for licensure following completion of training (see OAC 490:10-1-3 for requirements).~~Applicants will have twenty-four (24) months to complete all licensure requirements.
~~(c)~~(b) ~~An applicant for licensure by endorsement or registering for reciprocity shall be deemed to have abandoned the application if he does not fulfill all requirements for licensure within one year from the date of application.~~ Reciprocity applicants will have one year to complete any licensure or certification requirements to qualify for endorsement.
~~(d) An application for Administrators University (AU) shall be used as an application for initial licensure. However, if this application is over a year old when all requirements have been met, the Board shall require that the application be updated. Such an application shall be deemed abandoned if it has not been updated within the time restrictions for licensure.~~
~~(e) An application for licensure submitted subsequent to the abandonment of a former application shall be treated as a new application and the applicant must meet current requirements for licensure as a long term care administrator.~~
~~(f) Upon receipt of an application for licensure, the Board shall request that a criminal history background check be performed on the individual requesting licensure. If the results of a criminal background check reveal that the applicant has been convicted of or pleaded guilty or nolo contendere to any felony or to any misdemeanor involving moral turpitude, the individual's application for licensure may be disapproved and no further action will be taken on the application.~~
~~(g) An application is complete when:~~
~~(1) the application fee prescribed by the Board at OAC 490:1-7-2 has been remitted and deposited to the Board's credit with the State Treasurer (the date of payment of the application fee establishes the date of the application);~~
~~(2) all documentation required to be submitted along with or in support of the application has been received by the Board;~~
~~(3) the applicant has met all other requirements for an initial license, for licensure by endorsement, for a provisional license or a certification, as applicable, and~~
~~(4) the results of the criminal background check have been received by the Board .~~
~~(h) Upon verification of compliance with all requirements, an applicant shall be eligible for consideration by the Board for purposes of licensure as a long term care administrator.~~
~~(i) A license will not be issued until all fees are paid in full.~~
~~(j) The certificate of license shall be presented at the Board meeting when it is approved, if possible, or mailed to the applicant within seven (7) working days of Board's formal grant of license to the applicant. Applicants are encouraged to attend the Board meeting.~~
~~(k) A temporary license may also be applied for in accordance with the applicable provisions in paragraph 10-1-3(d), 10-1-3.1(e), 10-1-3.3(e), or 10-1-3.5(c) at the discretion of the applicant.~~

310:679-10-11. ~~Evidence~~Documentation requirements [AMENDED]

(a) ~~To satisfy the Board's requirement for evidence verifying educational degree(s) conferred or hours of post-secondary education completed, the applicant shall an official transcript(s) to be sent directly to the Board office from the educational institution(s) that awarded the degree(s) and/or from the educational institution(s) at which the post-secondary education was completed. Transcripts issued to the student, or copies thereof, shall not be accepted.~~ If submitting documentation for long-term care work history, the applicant must submit a letter, signed by a licensed long-term care administrator, medical director, director of nursing, or registered nurse on company letterhead attesting to the applicant's long-term care work history.
~~(b) To satisfy the Board's requirement for evidence indicating experience, the applicant shall submit a declaration signed by a licensed long term care administrator, medical director, director of nurses, or registered nurse who can attest to the applicant's work experience.~~
(b) A signed affidavit of lawful presence must be submitted with each application.
(c) For bachelor's or associate's degree documentation, an official copy of the transcript is required.

310:679-10-12. National ~~examination~~examinations [AMENDED]

(a) ~~"NAB Examination(s)" refers to the required examination(s) for a particular license type. Prior to July 2017, NAB conducted only two examinations - one for the NHA and one for the RCAL license types. Many administrators will have single scores from those exams on file. After this date, the examinations were broken into two (2) parts consisting of a "Core" examination and a "Line of Service" or "LOS" module exam, with three (3) different LOS exams possible - the existing NHA and RCAL with HCBS (Home and Community Based Services) being the third LOS "module" added. The "Core" examination items are those items that according to NAB's periodic professional practice analysis have been~~

~~determined to be "core" to all lines of service as an administrator where the LOS exams or modules are specific to those lines of service. NAB's HSE credential, for example, would require that one will have passed all four (4) of these exams (the "Core" and all three LOS exams). Other licenses may require the Core and a corresponding LOS exam be passed, but viewed as a single exam requirement. It is also possible to simply have a requirement for the Core exam wherein the LOS exams available may not be viewed as wholly compatible with the license/certification type. When one speaks of the NAB Exam, they would typically be referring to the "whole" requirement for an exam or series of exams for the specified license type or credential which explains why it's possible to be referenced in singular or plural.~~ The NAB Core examination consists of questions related to the Domains of Practice and is relevant to all licensed administrators. It is required for all long-term care administrator applicants.

(b) ~~An individual applying for an initial license must receive a passing score on the applicable exam, either the Nursing Home Administrator ("NHA") examination (Core and NHA module) or the Residential Care/Assisted living ("RC/AL") exam (Core and RCAL module), administered by the National Association of Long Term Care Administrator Boards (NAB) (neither is applicable to Residential Care or Adult Day Care administrator applicants). The Board may waive this requirement if the applicant provides evidence that he has successfully passed the appropriate NAB examination at a previous time. The NAB's RC/AL (Residential Care/Assisted living) exam does not meet the requirements for a nursing home administrator license. An applicant showing proper evidence of having the HSE credential shall be considered to have shown evidence that he passed both the NHA and RCAL exams as well as the HCBS exam. An applicant who tested prior to the implementation of the Core and LOS modules shall be considered to have passed the Core as well as either the NHA or RCAL module (or both) depending on the test(s) taken and passed.~~ The Line of Service module examination is required for certain license types and contains questions related to the Domains of Practice specific to a line of service.

(c) ~~An applicant for licensure by endorsement who has previously passed the required NAB examination will not be required to retake the examination if the applicant provides evidence of a passing score.~~ HSE applicants as well as reciprocity applicants who provide evidence of a previous passing score and meet all other reciprocity requirements will be exempt from taking NAB tests prior to the issuance of a license.

(d) ~~An individual applying for a provisional license shall not be required to pass the applicable NAB examination to be provisionally licensed.~~ Provisional license applicants will not be required to pass the NAB examination before becoming provisionally licensed, if all other provisional licensure requirements are met.

(e) Fees for all national examinations ~~shall be in an amount prescribed by and are due~~ are prescribed by and payable to the NAB or its authorized designee.

310:679-10-13. ~~State Standards examination~~Required examinations [AMENDED]

(a) ~~An individual applying for an initial license, licensure by endorsement, or a provisional license, must, prior to the issuance of the respective license;~~Applicants must ~~receive a passing score on the appropriate~~pass the applicable State Standards examination ~~for the license for which he is applying~~ prior to a license being issued. ~~There shall be a separate examination for each type of license~~ Each license type requires a specific State Standards examination. ~~First time applicants for initial licensure shall have received a passing score on the State Standards examination within the twenty-four (24)-months preceding the month in which the Board will be taking action to license the applicant, and if applicant is not licensed during this 24-month time period, applicant will have to pay all required fees and re-take the examination prior to any future licensing attempts.~~ Applicants for licensure by ~~endorsement~~ reciprocity, applicants for a provisional license and applicants for initial licensure who have previously held an Oklahoma ~~long term~~long-term care administrator license must~~, prior tothe issuance of the respective license, successfully~~ pass the current, applicable ~~current~~ State Standards examination.

~~(1) Applicants for an initial license must take and pass the appropriate State Standards Examination prior to being eligible for an applicable NAB exam.~~

~~(2) Board staff are required to receive the testing results from the testing source to validate the passing scores of all examinations, to include the State Standards Examinations.~~

(b) The application must be complete and ~~supporting documents required by the Board for licensure must be completed and on file with the Board prior to entering~~correct before the applicant may begin training ~~and/or prior to being approved~~or being granted approval to take the applicable examination(s).

(c) ~~The Board will periodically schedule examinations and publish the dates and times in a timely manner on the website.~~The Department will publish dates and times for testing on the Department website. Applicants ~~are permitted to take the examination during these scheduled examinations or they may opt to take the examination at a testing facility where it is administered. State examinations taken in a testing facility shall be scheduled by the candidate when eligible and shall be~~may take the exam at a Department-designated location or through a testing center if the examinations are

administered through the same ~~examination~~methods and procedures as the NAB examinations~~ are conducted, including but not limited to the use of electronic or online methods of examination~~.
(d) ~~The Board has determined the~~A passing score for all State Standards examinations ~~to be~~is Seventy-Five percent (75%) or greater~~, and shall apply this standard uniformly to all persons taking the examinations~~.
(e) Fees for the State Standards examination administered by the ~~Board~~ Department shall be in an amount prescribed by the ~~Board~~Department ~~at OAC 490:1-7-2~~. All examination fees must be paid prior to examination.

310:679-10-14. ~~Admission to the State Standards and National Examinations~~Confidentiality of examinations [AMENDED]

~~(a) Applicants must meet requirements to sit for a state examination. When a NAB examination is required, they must first pass the state exam.~~
~~(b) Applicants for licensure by endorsement, for a provisional license and for a certification as an assistant administrator (nursing facility only) are eligible to sit for the State Standards examination on the next scheduled testing date, or pay the appropriate fee for an unscheduled testing date, or they may schedule the examination through a testing facility that administers the examination.~~
~~(c)~~ Applicants shall not ~~compromise the NAB or the Oklahoma State Standards examination by disclosing~~ disclose any information, questions, or answers ~~on these~~ from licensure examinations. ~~Applicants shall complete a "Test Confidentiality and Attestation" form provided by the Board or an online equivalent.~~
~~(d) Failure to observe the confidentiality of a NAB Examination or an Oklahoma State Standards Examination may result in disciplinary action by the Board as outlined in OAC 490:10-5-3(a)(23).~~

310:679-10-15. ~~Application for licensure/certification/registration renewal~~Renewal requirements [AMENDED]

(a) ~~Each applicant for a renewal of a license, certification or registration shall:~~The renewal applicant shall submit an application with the following information and supporting documentation:

(1) Updated contact information;
(2) Current location where operating as an administrator;
(3) If applicable, a list of interns to whom they have served as a preceptor with dates; and
(4) An affidavit of lawful presence.

~~(1) File an application, on the form and in the manner as prescribed by the Board (online), prior to the expiration date of the current license/certification/registration.~~
~~(2) Submit evidence, upon request, satisfactory to the Board that the applicant has successfully completed the hours of continuing education as required for license renewal. During the renewal process, licensees certify that they have or will have accomplished the required continuing education requirements during the licensure year. The Board conducts random audits of this accomplishment each year per OAC 490:1-9-5(c).~~
~~(3) Be in compliance pursuant to 68 O.S. Section 238.1 with State income tax requirements. If a licensee whose license is on 'active' status is found to be in non-compliance with these State income tax requirements:~~
~~(A) such license shall not be renewed; and~~
~~(B) licensee shall not have recourse against the Board for non- renewal of his license.~~
~~(4) Submit to a criminal background check. Concurrent with the annual CE audits conducted per OAC 490:1-9-5(c, the Board will randomly select not less than a five (5%) percent sample from all renewed licenses against which sample the Board will perform criminal background checks. If the results of a criminal background check reveal that a licensee has been convicted of or pleaded guilty or *nolo contendere* to any misdemeanor involving moral turpitude or to any felony, or to any of the barrier offenses listed at OAC 490:10-1-2.1 the licensee will be subject to Board sanction(s), including license suspension or revocation.~~
~~(5) Remit the Annual License Renewal fee as prescribed by the Board at OAC 490:1-7-2 and ensure all outstanding fees and fines owed to the Board have been paid. If a licensee has outstanding fees or fines owed to the Board, licensee shall not be permitted to renew his license until the same have been paid in full to the Board, provided that such payment is made prior to the expiration of the current license. If such payment is not made prior to the expiration date of the current license, licensee no longer holds a valid license and licensee is considered to have abandoned his license and the practice of long term care administration, and the Board shall take action to formally vacate his license. If this occurs, and if he wishes to resume the practice of long term care administration, he must re-apply to the Board, fully satisfy any/all outstanding fees or fines owed to the Board, and meet current requirements for initial licensure as a long term care administrator.~~

~~(b) A suspended license is an 'active' license against which the Board has taken disciplinary action and suspended licensee's ability to engage in the practice of long term care administration. As such, a suspended license shall be subject to expiration and shall be renewed as provided in this Section. Renewal of a suspended license shall not entitle the licensee to engage in the practice of long term care administration until the suspension is removed by the Board and the privilege to practice long term care administration is restored by the Board.~~
~~(c) It is the personal responsibility of each licensee to renew his license prior to the expiration date of the current license and, further, to ensure that the information he provides for purposes of renewal is true and accurate.~~
~~(d) If the license is not renewed by the last day of the current licensing year, a late fee of $100 per week shall be assessed wherein the first day equates to the first week (e.g., week 2 starts on the 8th day...) up until the first Board meeting of the year when all non-renewed licenses at that point shall be declared lapsed by the Board and those licensees shall be considered to have abandoned their licenses and do not hold a valid license as of 12:01 a.m. on the day after expiration and shall not hold a position or function in the capacity as a long term care administrator in Oklahoma.~~

~~(1) Credential holders (licensees, certificate holders, registrants) may actively opt out of renewing their credential for the following year by acknowledging that they have agreed to having their license vacated by the Board and are waiving the notices sent by Board staff regarding late renewals. The decision to have the credential vacated in these cases is made by the credential-holder.~~

~~(2) Should the credential holder who actively opted not to renew later decide to renew after the expiration date but before the Board has taken action to vacate other credentials for the year, they will follow the same procedures to renew late as those who failed to renew but take responsibility to do so without notifications from Board Staff, having waived such notices upon actively opting to not renew.~~

~~(e) All lapsed licensees or certificate holders, following this declaration, (if he wishes to resume the practice of long term care administration) must re-apply to the Board and meet current requirements for initial licensure as a long term care administrator, provided that the individual petitioner can provide evidence to the Board that he complied with all lawful requirements for the retention or renewal of the license.~~
~~(f) All non-renewed licenses shall be presented to the Board at a meeting of the Board. The Board shall take formal action at that meeting to vacate all non-renewed licenses.~~
~~(g) Following this Board meeting, a listing of all licenses vacated by the Board shall be submitted to the Oklahoma State Department of Health, Long Term Care Services Division.~~
~~(h) An individual who practices after the expiration (lapsed or vacated) of his license is practicing without a license and is subject to disciplinary action and/or sanctions as determined by the Board.~~
~~(i) A license that is vacated with an open case is required to be reported to the National Practitioners Data Base (NPDB) and included in the Board's Complaint Registry.~~
~~(j) Title 59 O.S. 4100.6(A), (B), (C) and (D), notwithstanding any other statutes to the contrary, provides for the automatic extension of license or certification for active duty military service members. The licensee to whom this applies shall be required to notify OSBELTCA staff and provide satisfactory evidence they are active duty and the status of their license shall become "Military."~~

~~(1) The license must be in good standing at the time the status is changed.~~

~~(2) The licensee must keep the Board informed of address changes and any changes in their active duty status. Failure to keep the Board informed in a timely manner shall cause the status of the license to be vacated by an action of the Board.~~

~~(3) While the active duty member is deployed and circumstances with military duty prevent obtaining training, the license will be renewed annually by staff without the payment of renewal fees and without a continuing education requirement .~~

~~(4) The license or certificate issued/renewed pursuant to this paragraph may be continued as long as the licensee or certificate holder is a member of the Armed Forces of the United States on active duty and for a period of at least one (1) year after discharge from active duty.~~

(b) The renewal applicant shall submit the required fee at the time of renewal.

310:679-10-16. Provisional licensure term [AMENDED]

A provisional license shall expire six (6) months from the effective date of the provisional license. Provisional licenses are non-renewable. ~~and shall not be renewed.~~

PART 5. DISCIPLINE

310:679-10-20. Disciplinary action [AMENDED]

(a) ~~This subchapter applies to all long term care administrators (licensed and/or registered), certified assistant administrators (CAAs), any person applying for licensure, registration or certification, unlicensed persons acting as administrators without a license or certification, and any person acting as administrator with a revoked, suspended, surrendered, lapsed or vacated license.~~

~~(b) The Board may take action against a licensed/registered administrator or an unlicensed person acting as administrator, and may deny an initial application, deny an application for reinstatement, deny a licensure by endorsement application, deny a renewal application, suspend or revoke a long term care administrator license or certification, a provisional license, a preceptor certification, an assistant administrator's certification, or an AIT internship training permit, warn, censure, reprimand, impose administrative fines and/or costs including attorney fees, impose probation or use other remedies that may be considered to be less than suspension or revocation upon satisfactory evidence of any of the following~~ The following reasons may disqualify an initial or renewal applicant from licensure or certification and could result in enforcement by the Commissioner of Health:

(1) Obtaining or attempting to obtain a license, registration or certificate by fraud, deceit, or misrepresentation; or misrepresenting oneself as holding a license or certification when they do not.

(2) Conviction of or a plea of guilty or *nolo contendere* to any felony or to any misdemeanor involving moral turpitude, or any barrier offense as outlined in this chapter.

(3) Use of legally-prescribed or illegal drugs (narcotics or other dangerous drugs) or alcohol or the dependence on legally-prescribed drugs or illegal drugs or alcohol, or gambling, if such use or dependence, or such gambling, or the behaviors related to or resulting from such use or dependence compromise the individual's ability or capacity to fulfill his duties or responsibilities in the ~~long term~~long-term care facility, or if the same constitute(s) a criminal offense.

(4) Commitment to a mental institution or judicial determination of incompetence.

(5) Gross negligence, or negligence that constitutes a danger to the health, welfare or safety of the residents or the public.

(6) Physical or verbal abuse of a resident or misappropriation of a resident's funds or property; failure to report an allegation of physical or verbal abuse of a resident or misappropriation of a resident's funds or property to appropriate state authorities as required by law.

(7) Fraudulent, deceptive or dishonest conduct in the management of a ~~long term~~long-term care facility, or other conduct unbecoming to a person licensed or subject to licensure under this law when, in the judgment of the ~~Board~~ Department, such conduct is detrimental to the best interest of the ~~long term~~long-term care field, the ~~long term~~long-term care administrator profession and/or the public.

(8) Except as otherwise permitted in this Chapter, concurrently serving or acting as the administrator of more than one nursing facility or assisted living facility; or exceeding the conditions placed on administrators of ~~ICFs/MR~~ICF/IID facilities with 16 beds or less as stated in this Chapter; or otherwise serving as an administrator beyond the scope of their licensed authority.

(9) Failure to comply with State or federal requirements applicable to the facility.

(10) Failure to comply with rules and requirements for administrators established by the ~~Board~~ Department, including the Administrator Code of Ethics and Administrator Responsibilities adopted by the ~~Board~~ Department.

(11) Evidence that the administrator has paid, given, has caused to be paid or given or offered to pay or to give to any person a commission or other valuable consideration for the solicitation or procurement, either directly or indirectly, of long-term care facility patronage.

(12) Intentional retaliation or discrimination against any resident or employee for contacting or providing information to any State official, licensing agency or regulatory agency.

(13) Failure to provide verification of continuing education hours.

(14) Sexual abuse, sexual harassment, or sexual exploitation of any resident, employee, trainee, volunteer, consultant, or visitor to the facility in which the licensee practices.

(15) Falsification of any records or documents relating to the operation of a long-term care facility; falsification of records or documents submitted to the Department or any other state or federal agency; falsification of a resident's records, or causing a resident's records to be falsified.

(16) Use of the licensee's professional status, title, position, or relationship as a long-term care facility administrator to coerce, improperly influence, or obtain money, property, or services from a resident, resident's family member, employee, visitor, or any person served by or doing business with the facility that employs the administrator.

(17) Interfering with, refusing to participate in, or impeding any investigation, inspection, or disciplinary proceeding authorized by Statute.

(18) Violation of any disciplinary order, consent agreement, term of suspension, condition, stipulation, or any other limitation imposed on the licensee by the Department.
(19) Unlicensed practice, practice on a revoked, suspended, or lapsed license; or practice on a provisional license without the use of an on-site consultant or practice as a Certified Assistant Administrator without the oversight of an Administrator-of-Record.
(20) Failure to pay fees or fines established or imposed by the Department.
(21) Knowingly aiding, assisting, or advising a person to unlawfully practice as an administrator without a required license.
(22) Failure to adequately supervise an assistant administrator and/or failure to assure that the assistant administrator complies with state and federal requirements applicable to the facility.
(23) Conduct that violates the security of any licensure examination materials.
(24) Coercion or harassment, or the attempt to coerce or harass, or the use of any other form of uninvited solicitation directed toward a resident of a long-term care facility or toward a member of the resident's family or the resident's guardian for the purpose of attempting to persuade the resident to change ~~long term~~long-term care facilities.
(25) Failure to notify the Department of a change of name, business or personal mailing address(es), or change of employment within fifteen (15) calendar days of the occurrence.
(26) Coercion or harassment of, or the attempt to coerce or harass, a member of the Department, a Department employee or an authorized agent or representative of the Department as related to any matter or issue over which the Department has authority.
(27) Exclusion by the Department of Health and Human Services Office of Inspector General from participation in any capacity in the Medicare, Medicaid, and all Federal health care programs as defined in section 1128B(f) of the Social Security Act.

~~(c) When the Board places a license in probationary status, it may require the licensee to have a "consultant" administrator during the probationary period. The consultant shall agree to the terms of the consultant role as defined in 490:10-1-5(c)(2), meet the qualifications in 490:10-1-5(c), and agree to the requirements of a consultant as listed at 490:10-1-5(f)(1) and (2).~~
~~(d) The Board may stipulate requirements for reinstatement in disciplinary orders that are consistent with 490:10-1-11 requirements for reinstatement from suspended status~~.
(b) If a Long-term Care Administrator violates any requirement in OAC 310:679, the Oklahoma Long-Term Care Administrators Act, or any other rule or law relevant to the duties and responsibilities of the Administrators, the Department may impose one or more of the following sanctions:

(1) license or certificate revocation;
(2) license or certificate suspension;
(3) denial of application for license or certificate renewal;
(4) assessment of an administrative penalty;
(5) written letter of reprimand;
(6) participation in continuing education;
(7) probation;
(8) denial of authorization to perform as a preceptor; or
(9) revocation of preceptor authorization.

310:679-10-21. Summary suspension [AMENDED]

~~(a)~~ In the course of an investigation, ~~The Board~~the Department may order a summary suspension of an administrator's ~~license/certification or an Administrator in Training. Or an intern/trainee Administrator-In-Training internship permit, if, in the course of an investigation, it is determined that the respondent has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of one-or-more residents or to the health, safety or welfare of the public, or detrimental to the profession of long term care administration, and which conduct necessitates immediate action to prevent further harm.~~ license or certification or an Administrator in Training (AIT) permit if, in the course of an investigation, it is determined that a license, certificate holder, or AIT candidate for licensure has engaged in conduct of a nature that is detrimental to the health, safety, or welfare of the public, and which conduct necessitates immediate action to prevent further harm. The Department shall immediately notify the licensee, certificate holder, or AIT candidate upon issuance of the order. The licensee, certificate holder, or AIT candidate shall have the right to contest the order at a hearing as provided by law.

~~(b) The Board shall be charged with making the determination that an emergency exists and that a summary suspension is necessary, and shall incorporate in it's Order that public health, safety or welfare requires emergency action.~~
~~(c) Proceedings for revocation or other appropriate action shall be promptly instituted and a determination promptly rendered by the Board.~~

PART 7. ADMINISTRATOR ~~UNIVERSITY~~TRAINING REQUIREMENTS [AMENDED]

310:679-10-25. General provisions [AMENDED]
(a) ~~The Board~~ If a waiver is not granted according to specifications in this chapter, applicants are required to complete Department-approved trainings prior to being eligible for a license or certification. NAB-approved trainings may be taken at any time to satisfy the training requirement. ~~is committed to providing learning opportunities to individuals interested in pursuing a career in long term care administration, and enhancing the development of licensed administrators. To further this objective, the Board has established an Administrator University (AU) for nursing home administrator and Certified Assistant Administrator (CAA) applicants with curriculum designed specifically to educate individuals with knowledge and skills that may assist them in becoming a successful nursing home and/or ICF/MR administrator or CAA. The Board will periodically review and approve or establish training for residential care/assisted living and adult day care administrators as deemed necessary.~~
(b) Internships are required for license types that require internships as outlined in this chapter and who have not been granted a waiver according to 679-10-3. ~~Effective August 1, 2006, individuals applying to become nursing home administrators shall successfully complete Administrator University (AU) prior to being licensed. Effective January 1, 2019, individuals applying to become Certified Assistant Administrators shall successfully complete AU prior to being certified. The Board presumptively approves NAB-approved entry level training designed for Nursing Home Administrators for either the NHA or CAA requirement to complete AU.~~
~~(c) Administrators who are already licensed in the State of Oklahoma as a nursing home administrator may enter Administrator University at their own expense for enhanced training if classroom space is available.~~
~~(d) Upon mutual agreement of the Board and licensee, specific classes or the entire Administrator University curriculum may be imposed as a penalty for the violation of rules and/or standards established by the Board.~~
~~(e) The Board may also designate certain days or classes within the curriculum as eligible for continuing education (CE) credit and may charge an appropriate fee (as a workshop) for administrators to attend on a space available basis.~~
~~(f) The application fee and Administrator University fee prescribed by the Board at OAC 490:1-7-2 shall be submitted during the online application process prior to admission to Administrator University.~~
~~(g) An applicant for licensure who successfully completes Administrator University (AU) will not have to repeat Administrator University if he is successfully licensed in Oklahoma as a long term care administrator within twenty-four (24) months after the completion of AU which is marked by the scheduled date of class for that particular class.~~
~~(h) If applicant fails to become licensed/certified as an Oklahoma long term care administrator during this 24-month time frame, applicant will have to pay all applicable fees and repeat Administrator University prior to any future licensing/certification attempts.~~

PART 8. ~~ADMINISTRATORS IN TRAINING (ATI) INTERNSHIP PROGRAM FOR NURSING HOME~~ADMINISTRATOR IN TRAINING (AIT) INTERNSHIP PROGRAM FOR LONG-TERM CARE ADMINISTRATORS AND CERTIFIED ASSISTANT ADMINISTRATORS [AMENDED]

310:679-10-29. Application requirements [AMENDED]
(a) ~~The applicant shall submit to the Board an~~An application shall be submitted to the Department, ~~which shall contain such~~ containing the following information and documentation: ~~as name, education, employment history, information pertaining to moral character, any other information the Board requires, and an affidavit stating that the applicant, if granted a license, will obey the laws of the State and the rules of the Board, and will maintain the honor and dignity of the profession. The application for licensure and/or to attend AU meets this requirement.~~
(1) Name;
(2) Contact Information;
(3) Educational history as required by license type;
(4) Signed letter outlining applicable work history if required by license type; and
(5) Affidavit of Lawful Presence.

(b) ~~To satisfy the Board's requirement for evidence verifying educational degree(s) conferred or hours of post-secondary education completed, thefound at OAC 490:10-3-1.1.~~
~~(c) The applicant will be subjected to a criminal background check as described in this Chapter prior to beginning an AIT internship.~~ A background check will be completed on all applicants.
~~(d)~~(c) A fee as prescribed by the ~~Board~~Department ~~at OAC 490:1-7-2~~ shall be submitted with the application.
~~(e)~~(d) An applicant ~~who successfully completes a Board-approved AIT internship will not have to repeat the internship if he is successfully licensed/certified as a long term care administrator/CAA in Oklahoma within the~~will have twenty-four (24) months to complete the required training and internship. ~~following the month in which he first began his internship, and if applicant fails to secure licensure/certification within this 24-month time frame, applicant will have to pay all applicable fees and serve a new AIT internship prior to any future licensing/certification attempts.~~ A one-time extension may be granted by petitioning the Department if the applicant submits a formal request outlining the reasons for the delay. The Department has discretion to approve or deny extension requests and will notify the applicant of the decision.

310:679-10-30. ~~Training permit~~Required internship [AMENDED]
(a) ~~In order for a training permit to be issued, the facility or facilities at which the AIT internship is to be served must be~~ Internship permits may be granted to applicants who have been approved by facilities which are:
(1) licensed by the Oklahoma State Department of Health as a ~~long term~~long-term care facility; and
(2) in substantial compliance with the rules and regulations governing licensure and operation of ~~long term~~long-term care facilities.
(b) ~~After approval of the proposed AIT internship, the Board shall issue an applicable AIT internship training permit to the applicant (the 'intern/trainee'), one that shall be valid for a maximum one-year time period beginning on the date the permit is issued.~~
~~(c) Should the intern/trainee not maintain acceptable standards and submit the required reports, the Board shall place the intern/trainee on probation or may rescind the AIT internship training permit.~~ Interns must submit all required documentation to the Department.

310:679-10-31. ~~Preceptor selection~~Identification of preceptor [AMENDED]
(a) ~~From a list of preceptors 'certified' by the Board, the intern/trainee may indicate his choice.~~ Applicants are required to submit information on a proposed preceptor for review by the Department.
(b) ~~It shall be the responsibility of the Board to contact a preceptor to determine if the preceptor will accept the applicant.~~ Applicants must submit required documentation for their selected preceptor to include:
(1) Name of preceptor;
(2) License number of preceptor;
(3) Name of the facility where the preceptor is an administrator;
(4) Address of facility where the preceptor is an administrator;
(5) Phone number of preceptor;
(6) Email address of preceptor; and
(7) Signature of the preceptor on preceptor attestation form.
(c) ~~Once a preceptor accepts an AIT intern/trainee, any subsequent changes must be approved by the Board.~~ If a change in preceptor becomes necessary after the start of an internship, interns are required to notify the Department. Any new preceptor must be Department-approved.
(d) ~~The preceptor shall notify the Board of the date of acceptance and the date of any discontinuance of AIT internship.~~ Preceptors who discontinue any internship must provide the Department and the intern with the following information within 30 days of the discontinuation of the preceptorship:
(1) the number of internship hours the intern has completed; and
(2) the Domains of Practice that have been covered during the internship.
(e) Applicants may access a list of authorized preceptors from the Department website if they do not have a preceptor identified.

310:679-10-32. Preceptor qualifications [AMENDED]
(a) A licensed administrator ~~wishing to be certified as a preceptor for the AIT program shall apply online and pay the required fees.~~ interested in being a preceptor for an administrator intern must:
~~(b) To be certified as a preceptor, the applicant shall:~~
~~(1) exemplify the highest ethical and professional standards as an administrator for at least the preceding twenty-four (24) consecutive months;~~

~~(2) be licensed and be able to document employment as:~~ Hold a current Oklahoma administrator license;

~~(A) an Oklahoma long term care administrator for at least twenty-four (24) months of the preceding sixty (60) months; OR~~

~~(B) an Oklahoma long term care administrator for at least twenty four (24) of the preceding sixty (60) months and supervising administrators in multiple locations wherein an AIT could be appropriately trained under his direct and/or indirect supervision, e.g., as a regional supervisor or operations officer with multiple homes; OR~~

~~(C) an Oklahoma long term care administrator for at least twenty- four (24 months of the preceding sixty (60) months currently serving as an assistant administrator in a Veterans Administration (ODVA) home (not the administrator of record);~~

(2) Have been operating as a licensed administrator for the twenty-four (24) months immediately preceding the internship or thirty-six (36) of the last sixty (60) months;

(3) ~~successfully complete preceptor training that meets the requirements established by the Board; and~~ Be currently working as an administrator in a licensed Oklahoma facility;

(4) ~~has not been the subject of any action by any Board or licensing authority which resulted in formal reprimand, suspension or revocation of license, within the preceding twenty-four (24) consecutive months;~~ Have not had an enforcement action against their license by the Department in the thirty-six (36) months immediately prior to the start of the internship; and

(5) ~~has not been the subject to any other action by any Board or licensing authority which resulted in a Board order prohibiting serving as a Preceptor.~~ Is not currently subject to disciplinary or enforcement action in another state.

~~(c) If the Board imposes a disqualifying sanction against an administrator, such administrator may not be eligible to be certified as a preceptor for twenty-four (24) months from the date of the sanction, as specified in the sanction's final or agreed order.~~

~~(d) Preceptors shall be certified for a period of thirty-six (36) months if active (who trained at least one trainee during the first twenty four (24) months of their preceptor-ship or twenty four (24) months if inactive). Preceptors may be re-certified at the discretion of the Board. There shall be an automatic extension of the certification period for any preceptor whose certification expires while overseeing an AIT intern/trainee, provided that the preceptor otherwise meets all other requirements for certification and those governing assignment of a preceptor to an AIT intern/trainee. The extension shall be granted to the end of the training period for the particular intern/trainee.~~

(b) A licensed administrator interested in becoming a preceptor, must fill out all required information on the preceptor section of the renewal application.

(c) Authorization to serve as a preceptor may be revoked by the Department

310:679-10-33. Preceptor ~~designation/assignment to an AIT intern/trainee~~requirements [AMENDED]

~~In order to~~To be ~~designated/assigned~~designated as ~~the~~a preceptor for an ~~AIT training program~~ intern, a ~~'certified' preceptor~~licensed long-term care administrator must:

(1) be ~~either~~ the full-time administrator-of-record of the facility ~~at which the~~AIT intern/trainee where the internship will take place, ~~would be completing his internship rotation~~, OR be a licensed administrator and the direct supervisor of the administrators(s)-of-record at the facility(s) ~~at which the AIT intern/trainee~~where the internship will take place ~~his internship rotation~~;

(2) agree to give the ~~intern/trainee~~intern an opportunity to observe and take part in the managerial tasks associated with the operation of a facility, acquaint the ~~intern/trainee~~intern with the organization and operation of all the various departments of the facility by permitting ~~his observation and/or participation~~the intern to observe and participate in department activities ~~subject to the training~~which align with the intern's Department-approved training program ~~approved by the Board~~;

(3) ~~hold regular meetings and/or discussions with the intern/trainee~~regularly meet with the intern to discuss progress to date, ~~consider~~potential refinements to hours spent in each module/domain of practice (in preparation for the NAB NHA exam), and ~~interview him upon completion of the internship to mutually discuss noted~~review the interns strengths and weaknesses; and

(4) ~~upon satisfactory completion of the program, provide~~complete the ~~Board~~Department-required attestation form ~~a letter certifying the completion of the required internship hours~~ once the intern has satisfactorily completed all internship hours.

310:679-10-34. ~~Curriculum for nursing home administrator and certified assistant administrator (CAA) AITs~~Individualized internship requirements [AMENDED]

(a) The preceptor, in conjunction with the ~~AIT intern/trainee~~ intern, will assess and evaluate the intern's background, training and experience ~~of the intern/trainee~~ to determine specific areas of concentration within the domains of practice and departmental rotations.
(b) The preceptor will ~~submit to the Board, prior to or within the first week of an AIT internship, an individualized curriculum for the intern/trainee, one that meets the Board's AIT internship requirements. The Board requires that the training be carried out in modules as delineated in the training materials~~ keep track of the training for each NAB training module and provide written documentation upon request by the Department.

310:679-10-35. ~~Module reports for nursing home administrator and certified assistant administrator (CAA) AITs~~Documentation of internship requirements [AMENDED]
(a) ~~At the conclusion of each module of training, the~~The preceptor will ~~submit to the Board an evaluation of progress on a form approved by the Board for that purpose~~ document the intern's progress through each NAB module of training.
(b) ~~Module reports must be received in the Board's office within ten (10) working days of completion of the module~~ NAB module completion will be documented on the checklist submitted by the preceptor to the Department and that accompanies the final preceptor intern review form.

310:679-10-36. Preceptor~~'s final report~~ CEUs [AMENDED]
~~(a) At the end of the approved AIT internship, the preceptor will submit a final report and an evaluation of the intern/trainee on the form(s) and in the manner as prescribed by the Board. The preceptor will sign the form(s). The form(s) will indicate whether or not the intern/trainee has satisfactorily completed the prescribed internship program.~~
~~(b) The reports will be filed in the intern/trainee's record and will become a permanent part of the record in the individual's file.~~
~~(c)~~(a) Preceptors for nursing home ~~AIT candidates shall~~interns may be awarded:
(1) 3 CEUs ~~per each~~for every 560 ~~hour trainee completed~~hours completed; or
(2) 4 CEUs per each 700 hour trainee completed; and
(3) ~~(awarded in the year the training was completed) and may earn up~~Up to 12 CEUs ~~in this manner~~ per calendar year (credited for a maximum of 3 students in any one calendar year~~)~~.
~~(d)~~(b) CEU credit is awarded for the year the training was completed.

310:679-10-37. Preceptor's checklist [AMENDED]
(a) The preceptor will maintain a current program completion checklist in the facility on the intern ~~intern/trainee~~ on a form approved by the ~~Board~~Department to be reviewed by the ~~Board~~Department upon request.
(b) The program completion checklist ~~shall~~will be submitted to the ~~Board along with the final report and evaluation~~ Department with the final evaluation form.

310:679-10-38. ~~Change of status and discontinuance~~Preceptor concerns [AMENDED]
~~(a) If the intern/trainee wishes to change to another preceptor, or discontinues the training, the intern/trainee must notify the Board prior to making this change.~~
~~(b) The notification requires the name of the intern/trainee and preceptor, the change requested, the effective date, reasons for the change, and any other information that the Board may request. Either the intern/trainee or the preceptor must sign the notification.~~
~~(c)~~ If ~~a substandard quality of care finding in a facility is upheld~~disciplinary or enforcement action is taken against an administrator ~~who is a certified~~serving as a preceptor ~~working with an intern/trainee~~, the ~~Board~~Department shall ~~evaluate the situation and~~ determine if there is a need to ~~assist the intern/trainee in finding a new preceptor and may, at its sole discretion, direct that a new preceptor be assigned to the AIT~~ reassign the intern to a different preceptor.

310:679-10-39. ~~Dismissal from program~~Intern concerns [AMENDED]
~~(a) The preceptor will inform the intern/trainee of his performance as the program progresses.~~
~~(b) If the intern's/trainee's performance is not acceptable, the preceptor will so inform him, and the intern/trainee will be given an opportunity to correct the deficiencies.~~
~~(c) If the intern/trainee does not correct the deficiencies, the preceptor will notify Board staff of the same, and a member of the Board's staff will notify the intern/trainee that he will be dismissed from the program.~~

~~(d) If the intern/trainee violates any of the Board's rules or regulations, or if the intern/trainee violates any of the policies or procedures of the facility(ies) at which he is serving his AIT training, the preceptor or authorized representatives of the facility(ies) will notify the Board's staff of the same, and the Board staff will notify the intern/trainee that he can no longer participate in the program.~~
~~(e) The intern/trainee may appeal dismissal from the program by petitioning the full Board for a formal hearing.~~
When a preceptor has concerns about an intern's ability to complete the internship requirements or ethical concerns that may affect the intern's ability to become a licensed administrator, the preceptor must notify the Department within ten (10) days.

310:679-10-40. Compensation ~~of AIT Interns/Trainees~~for interns [AMENDED]

The facility or facilities ~~in which the intern/trainee is training~~ may compensate ~~the intern/trainee~~an intern, but is/are not required to do so. The Department does not regulate compensation agreements on behalf of the intern or the preceptor.

310:679-10-41. ~~AIT time on the job~~Internship requirements [AMENDED]

(a) Tier 1 administrator applicants must complete at least a 1,000 hour internship with a Department-approved preceptor.
(b) Tier 2 administrator applicants must complete at least a 500 hour internship with a Department-approved preceptor.
(c) CAA applicants must complete at least a 500 hour internship with a Department-approved preceptor. ~~The intern/trainee with a degree in a field related to any of the NAB defined domains of practice, OR with experience in long term care for 2 of the last 5 years shall serve a 560 hour internship, unless in the opinion of the Board or preceptor, the intern/trainee requires additional hours of training; or unless the hours required to complete the internship, are otherwise reduced by formal action of the Board. All others (with a degree not related to a NAB defined domain of practice or without experience in long term care for 2 of the last 5 years) shall serve a minimum of a 700 hour internship with the same exceptions noted wherein additional hours are required in the opinion of the Board or preceptor.~~
~~(b) An internship that has been discontinued due to a period of active duty military service of the intern/trainee shall be allowed to be completed within one (1) year after the intern/trainee has completed his military service obligation. If this time frame cannot be met by the intern/trainee, the previously-started internship shall be cancelled by the Board and he will have to reapply to the Board for a new internship and pay all applicable fees. If an internship has been discontinued due to active duty military service of the preceptor, the Board will work with the intern/trainee to secure another preceptor.~~
(d) Applicants have twenty-four (24) months to complete the required internship and cannot complete greater than 40 internship hours per week.
~~(c) An internship that has been discontinued for any purpose other than military service, and such discontinuance exceeds one year from the date of the beginning of the discontinuance, that internship will be cancelled by the Board, and the AIT intern/trainee shall be required to reapply to the Board for a new internship and pay all applicable fees.~~(e) Applicants completing an internship who are called to active military duty may request stoppage on the twenty-four (24) month timeline. The Department may halt the timeline for military members called to active duty if the pause in the timeline is not likely to impede the applicant's ability to perform the required administrator duties once they are a licensed administrator.
~~(d) Only one discontinuance is allowed.~~
~~(e) 560 hour internships shall be completed in not less than fourteen (14) consecutive weeks nor more than twelve (12) consecutive months. 700 hour internships shall be completed in not less than seventeen and a half (17.5) consecutive weeks nor more than fifteen (15) consecutive months (where no more than 40 hours in any one week of the program is ever permitted).~~
~~(f) This section shall be subject to the requirements of any other provisions of law.~~(f) An applicant may apply for a one-time extension for the twenty-four (24) month timeline. Approval is at the discretion of the Department.
~~(g)~~(g) The ~~intern/trainee must complete the~~ internship must be completed in a facility or facilities ~~that is (are)~~ licensed in Oklahoma for the level of care equivalent to the ~~administrators license/certification~~license or certification being sought.

310:679-10-42. ~~AIT Internship exempt status~~Internship exemption [AMENDED]

The ~~Board~~ Department~~, in its sole discretion,~~ may waive the ~~AIT~~ internship requirement, ~~entirely, or portions thereof~~ wholly or in part, for ~~those~~ applicants ~~who show evidence of~~ who have provided documentation demonstrating the successful completion of a formal internship program that meets or exceeds ~~Board~~ Department requirements, such as in another state or in a NAB accredited ~~long term~~long-term care degree program.

310:679-10-43. Refusal to approve or renew preceptor or intern assignment [AMENDED]

The ~~Board~~Department may~~, at its sole discretion,refuse to approve or renew a preceptor certification or may~~withdraw preceptor approval or ~~refuse to approve~~disapprove the preceptor selection of an intern. ~~an assignment of anintern/trainee to a preceptor~~.

310:679-10-44. ~~Supervision of AIT interns/trainees~~Maximum preceptor oversight [AMENDED]

A preceptor ~~shall not concurrently supervise more than~~may not oversee more than two (2) ~~AIT interns/traineesunless otherwise approved by the Board~~ interns at a time.

PART 10. STANDARDS FOR ADMINISTRATORS

310:679-10-50. Administrator ~~Code of~~ Ethics [AMENDED]

(a) ~~The Board is committed to ethical professional conduct and therefore adopts the following standards to establish and maintain a high degree of integrity and dignity in the profession and to protect the public against unprofessional conduct on the part of long term care administrators. All long term~~ Long-term care administrators and AITs ~~shall be~~ are encouraged to participate in ~~their~~ a professional association~~, the American College of Health Care Administrators (ACHCA and often referred to as "the college") as a means of continually improving themselves as long term care professionals and another source for CEUs~~. CEUs may be approved when offered by a professional organization related to the field of licensure.

~~(b) The American College of Health Care Administrators Code of Ethics is adopted as follows: successful discharge of the professional responsibilities of all long-term health care administrators. This~~

~~(1) Preamble: The preservation of the highest standards of integrity and ethical principles is vital to the successfulCode of Ethics has been promulgated by the American College of Health Care Administrators (ACHCA) in an effort to stress the fundamental rules considered essential to this basic purpose. It shall be the obligation of members to seek to avoid not only conduct specifically proscribed by the code, but also conduct that is inconsistent with its spirit and purpose. Failure to specify any particular responsibility or practice in this Code of Ethics should not be construed as denial of the existence of other responsibilities or practices. Recognizing that the ultimate responsibility for applying standards and ethics falls upon the individual, the ACHCA establishes the following Code of Ethics to make clear its expectation of the membership.~~

~~(2) Expectation I: Individuals shall hold paramount the welfare of persons for whom care is provided.~~

~~(A) Prescriptions: The Health Care Administrator shall:~~

~~(i) Strive to provide to all those entrusted to his or her care the highest quality of appropriate services possible in light of resources or other constraints.~~

~~(ii) Operate the facility consistent with laws, regulations, and standards of practice recognized in the field of health care administration.~~

~~(iii) Consistent with law and professional standards, protect the confidentiality of information regarding individual recipients of care.~~

~~(iv) Perform administrative duties with the personal integrity that will earn the confidence, trust, and respect of the general public.~~

~~(v) Take appropriate steps to avoid discrimination on the basis of race, color, religion, sex, pregnancy, sexual orientation, citizenship status, national origin, age, physical or mental disability, past, present or future status in the U.S. uniformed services, genetics, or any other characteristic protected under applicable law.~~

(B) Proscription: The Health Care Administrator shall not: Disclose professional or personal information regarding recipients of service to unauthorized personnel unless required by law or to protect the public welfare.

(3) Expectation II: Individuals shall maintain high standards of professional competence.

(A) Prescriptions: The Health Care Administrator shall:

(i) Possess and maintain the competencies necessary to effectively perform his or her responsibilities.

(ii) Practice administration in accordance with capabilities and proficiencies and, when appropriate, seek counsel from qualified others.

(iii) Actively strive to enhance knowledge of and expertise in long-term care administration through continuing education and professional development.

(iv) Demonstrate conduct that is in the best interest of the profession.

(B) Proscriptions: The Health Care Administrator shall not:

(i) Misrepresent qualifications, education, experience, or affiliations.

(ii) Provide services other than those for which he or she is prepared and qualified to perform.

(iii) Conduct themselves in a manner detrimental to the best interest of the profession.

(4) Expectation III: Individuals shall strive, in all matters relating to their professional functions, to maintain a professional posture that places paramount the interests of the facility and its residents.

(A) Prescriptions: The Health Care Administrator shall:

(i) Avoid partisanship and provide a forum for the fair resolution of any disputes which may arise in service delivery or facility management.

(ii) Disclose to the governing body or other authority as may be appropriate, any actual or potential circumstance concerning him or her that might reasonably be thought to create a conflict of interest or have a substantial adverse impact on the facility or its residents.

(B) Proscriptions: The Health Care Administrator shall not: Participate in activities that reasonably may be thought to create a conflict of interest or have the potential to have a substantial adverse impact on the facility or its residents.

(5) Expectation IV: Individuals shall honor their responsibilities to the public, their profession, and their relationships with colleagues and members of related professions.

(A) Prescriptions: The Health Care Administrator shall:

(i) Foster increased knowledge within the profession of health care administration and support research efforts toward this end.

(ii) Participate with others in the community to plan for and provide a full range of health care services.

(iii) Share areas of expertise with colleagues, students, and the general public to increase awareness and promote understanding of health care in general and the profession in particular.

(iv) Inform the ACHCA Standards and Ethics Committee of actual or potential violations of this Code of Ethics, and fully cooperate with the ACHCA's sanctioned inquiries into matters of professional conduct related to this Code of Ethics.

(B) Proscription: The Health Care Administrator shall not: Defend, support, or ignore unethical conduct perpetrated by colleagues, peers or students.

~~(c) The Board adopts the following as an addition to the code of ethics: Administrators have a fiduciary duty to the facility and cannot serve as guardian of the person or of the estate or hold a durable power of attorney or power of attorney for any resident of a facility of which they are an administrator.~~
~~(d) Licensees shall place a copy of the Administrator Code of Ethics approved by the Board in a conspicuous location in a public area in the place of business requiring such license.~~
(b) Ethical standards such as those found in the American College of Health Care Administrators Code of Ethics shall be used as a minimum threshold for ethical standards.
(c) Licensed administrators must report any unethical conduct to the appropriate licensure boards.
(d) Licensed administrators have a fiduciary duty to the facility and cannot serve as a guardian of the person or the estate, or hold durable power of attorney for any resident of a facility of which they are an administrator.
(e) Administrators must post their license or certificate in a conspicuous location where it is easily visible by residents, clients, family members, and guardians.

310:679-10-51. Administrator responsibilities [AMENDED]

(a) ~~It is the responsibility of the long term care administrator, as the managing officer of the facility to plan, organize, direct, and control the day-to-day functions of a facility and to maintain the facility's compliance with applicable laws, rules, and regulations. The administrator shall be vested with adequate authority to comply with the laws, rules, and regulations relating to the management of the facility.~~ The long-term care administrator will manage the planning, organization, direction, and control of the day-to-day functions of the facility in which they are the licensed administrator. The administrator must comply with laws, rules, and regulations related to the management of the facility.
(b) ~~Long term care administrators licensed/certified by the Board shall adhere to the Administrator Code of Ethics as adopted by the Board.~~
~~(c) Nursing home administrators~~ Long-term care administrators licensed by the ~~Board~~ Department shall not concurrently serve as the administrator-of-record (AOR) of more than one ~~long term~~ long-term care facility except as otherwise permitted in this Chapter. A licensed ~~nursing home~~ long-term care administrator may serve as the administrator of more than one intermediate care facility for ~~the mentally retarded~~ individuals with intellectual disabilities with sixteen or fewer beds ~~(ICF/MR-16)~~ (ICF/IID-16), only if such facilities are located within a circle that has a radius of not more than fifteen (15) miles, and the total number of facilities and beds does not exceed the lesser of six (6) facilities or total licensed capacity of sixty-four (64) beds. A Long-Term Care Administrator may not concurrently serve as the Director of Nursing (DON) of a facility while serving as the facility's AOR.

~~(1) An NHA may not concurrently serve as AOR of more than one long term care facility except where authorized in statute and this chapter. Exceptions are discussed at OAC 490: 10-13-2(c) as it relates to ICF/MR-16; OAC 490:10-13-2(d) as it relates to Assisted Living facilities; OAC 490:10-13-2(c) as it relates to an NHA concurrently serving as AOR of a SNF/NF and another facility which includes an Assisted Living Facility, a Residential Care Facility and/or an Adult Day Care Facility; and OAC 490:10- 13-3 as it relates to the use of a CAA).~~

~~(2) An NHA may not concurrently serve as the Director of Nursing (DON) of a facility while serving as the AOR of a nursing facility.~~

~~(3) When functioning under one of these exceptions, the requirement to designate a person in the facility to act on the AOR's behalf during their absence must be strictly adhered to (see OAC 310, Chapter 675, paragraph (a) for this requirement).~~

~~(d)~~ (c) ~~NHA and~~ Tier 2 RCAL Administrators are limited to serving concurrently as AOR of two (2) Assisted Living Facilities. ~~with the requirement that the facilities are~~ The facilities must be located within sixty (60) miles of each other and have less than one hundred and thirty (130) occupied beds.

~~(c)~~ (d) ~~An NHA~~ Tier 1 Administrators may concurrently serve as the AOR of a SNF/NF and one other facility (Assisted Living, Residential Care or Adult Day Care) ~~provided that~~ if the two facilities have the same owner, the facilities are within 15 miles, and the number of occupied beds (or occupied beds and participants) does not exceed 130.

~~(f)~~ (e) Every ~~person licensed/certified as an administrator and~~ licensed or certified administrator and assistant administrator designated as the "Administrator-of-Record" (AOR) shall display ~~the appropriate "Certificate of" or "License"~~ the license or certificate in a conspicuous place ~~in the facility or place of business requiring such license/certification. Certified Assistant Administrators (CAAs), where utilized in this capacity, shall display their certification~~.

~~(g)~~(f) ~~Each licensed/certified administrator shall update their licensure record, online, within fifteen (15) calendar days following the change of his name, business and/or personal mailing address, change in employment or change in employment status, online in the manner as prescribed or as may be prescribed by the Board. The Board will assess a late fee as prescribed at OAC 490:1-7-2 if it is determined that the administrator failed to provide current contact information within this fifteen day period.~~ Licensed/certified administrators shall update their information with the Department within fifteen (15) calendar days for each of the following:

(1) Name change;
(2) Business address change;
(3) Personal address change;
(4) Change in employment status; and/or
(5) Change of employer.

~~(h)~~(g) ~~Upon receipt of satisfactory evidence that "Certificate" or "License" has been lost, mutilated, or destroyed, the Board may issue a duplicate replacement license upon payment of a fee as prescribed by the Board at OAC 490:1-7-2.~~

~~(i) To change his name on a "Certificate of License", the licensee must provide legal proof of the name change (e.g., copy of marriage certificate, divorce decree, etc.) before a replacement "Certificate of License" will be issued upon payment of a fee as prescribed by the Board at OAC 490:1-7-2.~~ Legal proof of a name change will be required prior to a replacement document being issued with the new name.

~~(j)~~ (h) ~~An administrator shall not knowingly initiate contact with an~~Administrators may not contact any individual currently residing in a ~~long term~~ long-term care facility, or ~~knowingly initiate contact with~~ the family or guardian of an individual currently residing in a ~~long term~~ long-term care facility, for the purpose of ~~attempting to persuade a change in that individual's residence~~ persuading a move by the resident to another ~~long term~~ long-term care facility.

~~(k)~~ (i) An administrator shall not ~~knowingly solicit or permit an employee to solicit clients for his long term care facility through~~ engage in or allow an employee to engage in the coercion or harassment to solicit clients for a long-term care facility. ~~If an administrator has knowledge of such actions by an employee, the administrator shall take such steps as are reasonable and necessary to stop such conduct.~~

~~(l)~~ (j) Administrators and administrator applicants must:

(1) Respond to requests for information made by the Department, other governmental agencies with authority, or a designated representative thereof;
(2) Be truthful in all responses to inquiries by the Department, other governmental agencies with authority, or a designated representative thereof; and
(3) Disclose all facts and information necessary for all matters under investigation. ~~An Administrator, or applicant for Administrator licensure/certification, in connection with a license/certificate application or an investigation conducted by the Board or an investigation conducted by the Oklahoma State Department of Health, the Oklahoma Department of Human Services, the Oklahoma Health Care Authority, or any other agency of the State or federal~~

~~government having regulatory responsibility over or relating to the delivery of care to persons in a facility operated or managed by the Administrator, shall not:~~
~~(1) knowingly make a false statement of material fact;~~
~~(2) fail to disclose a fact necessary to correct a misrepresentation known by the Administrator or applicant for licensure/certification to have arisen in the application or the matter under investigation; or~~
~~(3) fail to respond to a demand for information made by the Board or such government agency or any designated representative thereof.~~

~~(m)~~ (l) ~~To enable CEU attribution and uploads by NAB approved CEU providers, all~~All administrators and CAAs ~~will~~ must register with the NAB CE Registry.

310:679-10-52. ~~Requirements for administrators who serve as the Administrator-of-Record of two (2) or more licensed long-term care (nursing) facilities employing Certified Assistant Administrators~~Serving as the Administrator-of-Record for two (2) or more licensed long-term care (nursing) facilities employing Certified Assistant Administrators [AMENDED]

(a) The Administrator-of-Record ~~is responsible for ensuring that~~must ensure all minimum requirements for individuals wishing to serve as a Certified Assistant Administrator (CAA) ~~delineated herein and in~~in this rule and the Nursing Home Care Act (see Title 63, Section 1-1943.1) ~~relating to individuals who wish to serve in the capacity of Certified Assistant Administrator (CAA)~~ are met prior to the delegation of duties and responsibilities to ~~such individual~~ the CAA.

(b) The Administrator-of-Record shall ~~provide qualified individuals serving as a CAA with adequate~~delegate authority and responsibility to the CAA ~~administer those~~for all operational aspects ~~of the operations~~ of the facility ~~that are to be delegated to them, including the authority to act in an emergency~~ for which they will be responsible.

(c) The Administrator-of-Record shall ~~clearly, and in writing, develop a~~maintain a clear formal job description for the ~~position of~~ CAA, ~~wherein the duties and responsibilities of the individual serving as a CAA are clearly delineated~~ which will include duties and responsibilities.

(d) The Administrator-of-Record shall provide supervision, training and direction, ~~to the CAA~~ and delegate ~~only those~~ duties and responsibilities ~~that~~which may safely be performed by the ~~individual filling that role and that are not otherwise proscribed by law, rule or statute~~ CAA.

(e) The licensed Administrator-of-Record, ~~being licensed by the Board,~~ is legally ~~and ultimately~~ responsible for the management and operation of the facility and~~, as such,~~ shall maintain sufficient on-site presence in the facility to effectively supervise the CAA.

(f) The Administrator-of-Record shall ensure the CAA does not concurrently serve as CAA of more than one (1) ~~long term~~long-term care facility.

(g) The Administrator-of-Record shall spend at least ten (10) hours per calendar week on-site in the facility, providing guidance and direction to the ~~CAA, and further, such on-site~~CAA. On-site supervisory visits shall not be more than ten (10) calendar days apart.

(h) ~~The Administrator-of-Record shall establish a clearly-written policy delineating who the individual residents, residents' family members and/or guardians, and facility staff should contact when the Administrator-of-Record is absent from the facility as well as the procedure that is to be utilized that clearly indicates 'when' and 'how' such contact shall be made. The policy and procedure shall be provided to residents, residents' family and/or guardians, and facility staff and shall be posted in a conspicuous place in the facility.~~ Residents and their family members or guardian must be provided a policy on who can be called when the Administrator of Record is absent from the facility. At a minimum, the policy should include when and how this contact can be made.

(i) The Administrator-of-Record ~~shall not delegate nor cause to be delegated to the CAA any duty or responsibility that has been specified in State or federal law, statute, rule or regulation as being a duty or responsibility that can only be performed by a duly licensed Administrator or any duty or responsibility that is otherwise prohibited by State or federal law, statute, rule or regulation.~~ may not delegate any responsibilities or duties required by State or Federal law, statute, rule or regulation that are required to be performed by a licensed Administrator.

(j) ~~The Administrator-of-Recordshall ensure that no individual serve as the CAA if that individual holds a license granted by this Board, but which license is suspended, revoked or otherwise restricted, or if that individual has been sanctioned (formally excluded from participation in federally-funded health programs) by the U.S. Department of Health and Human Services (DHHS), Office of Inspector General (OIG).~~ The Administrator of Record must not allow individuals to serve as a CAA if:

(1) They hold a license or certificate that has been suspended, revoked, or otherwise restricted by the Department; and/or

(2) The license or certificate holder has been sanctioned or formally excluded from participation in federally-funded health programs by the U.S. Department of Health and Human Services (DHHS) or the Office of Inspector General (OIG).

(k) The Administrator-of-record shall ensure that no individual serves as a CAA if the facility at which the Assistant Administrator is to serve is not one of two-or-more facilities at which the Administrator serves as the Administrator-of-Record, that have a total bed complement not to exceed one-hundred-twenty (120) occupied beds and that are located with a fifty (50) mile radius of each other.

~~(l) The Administrator-of-Record shall establish a requirement for the certified assistant administrator to successfully complete no less than twenty-four (24) continuing education clock hours during each licensure period as a condition of employment and shall be responsible to ensure the certified assistant administrator(s) working under their license has renewed their certification with the Board by the end of each licensure period.~~

SUBCHAPTER 15. LONG-TERM CARE CERTIFIED ASSISTANT ADMINISTRATORS [AMENDED]

PART 1. CERTIFICATION OF LONG-TERM CARE ASSISTANT ADMINISTRATORS [AMENDED]

310:679-15-1. Purpose [REVOKED]

~~This Chapter implements the specific rules allowing the Board to 'certify' that individuals have met certain minimum requirements established by the Board, enabling such individuals to serve as a long term care Certified Assistant Administrator (CAA) in those situations wherein the Administrator-of-Record (AOR) at the facility in which they are to serve also serves as the Administrator-of-Record of one-or-more additional licensed nursing facilities in compliance with the Nursing Home Care Act (Title 63, Section 1-1943.1) requirements. Individuals who serve as Certified Assistant Administrators do so under the direct supervision and license of the licensed long term care Administrator-of-Record.~~

310:679-15-2. Definitions [REVOKED]

~~Definitions set forth in Chapter 1 of this Title shall also apply to this Chapter.~~

310:679-15-3. Minimum qualifications for ~~an individual applicant to meet certification requirements for~~ a Certified Assistant Administrator (CAA) [AMENDED]

~~(a)~~ In addition to the general requirements for administrators ~~found at OAC 490:10-1-2.1~~, each applicant seeking certification ~~as having met the minimum qualifications to be able to serve~~ as a CAA ~~shall meet the requirements in this Section.~~

~~(b) In order to qualify to receive certification from the Board that the individual met the minimum qualifications to be able to serve as CAA, each applicant~~ must provide evidence satisfactory to the ~~Board~~Department to include: ~~of the following:~~

(1) ~~Successful completion of a high school education and receipt of a high school diploma, or receipt of his~~High school diploma or G.E.D.;

(2) Successful completion of ~~Administrators University (AU)~~ Department-approved training, ~~or presumptively approved NAB-approved entry level training for NHAs, completed~~ within 24 months prior to certification;

(3) ~~Receipt of a~~A passing score on the ~~current~~applicable Oklahoma State Standards examination;

(4) ~~Receipt of a~~A passing score on the ~~national "NAB"~~NAB Core examination ~~conducted by the National Association of Long Term Care Administrator Boards (NAB) as discussed in paragraph 10-3-2 OAC 310:679-10-12 of this document~~; and ~~either~~

(A)~~(i)~~ One (1) year of current management, leadership or supervisory experience in a ~~long term~~long-term care facility; OR

(B)~~(ii) Successful completion of Board sanctioned~~Completion of a Department-approved ~~Administrator-in-Training~~Administrator in Training (AIT) program.

310:679-15-3.1. Evidence requirements [AMENDED]

To satisfy the ~~Board's~~ requirement for evidence indicating experience, the CAA applicant ~~shall~~may submit a declaration in the form of a letter on company letterhead, signed by a licensed ~~administrator~~administrator, ~~of a long term care facility, facility~~ medical director, ~~facility~~ director of ~~nurses,~~ nursing, or registered nurse of a long-term care facility attesting to the number of employees and length of time the applicant supervised. ~~who can attest to the applicant's work and supervisory experience, explicitly stating how many individuals the candidate supervised in his supervisory role(s). The supervision of a program is not considered the same as supervision of personnel.~~

310:679-15-4. ~~Conditions of employment for individuals 'certified' by the Board as having met the minimum qualifications required for them to serve as an Assistant Administrator~~Certified Assistant Administrator Scope of Practice [AMENDED]

(a) A Certified Assistant Administrator (CAA) ~~Under the supervision,~~under the supervision and direction ~~and license of the~~of a licensed ~~Administrator-of-Record, it shall be the~~Administrator-of-Record may have the responsibility ~~of the CAA~~ to plan, organize, direct, and control ~~those~~ day-to-day functions of a facility delegated to him and to maintain the facility's compliance with applicable laws, rules, and regulations during the absence of the licensed administrator.

(b) ~~A CAA shall practice only under the direct supervision and license of a licensed Administrator-of-Record who is in charge of two-or-more licensed nursing facilities within a 50-mile radius wherein the total number of occupied beds does not exceed 120, and whose license is active and otherwise unrestricted. A CAA shall not continue to serve at a facility in the CAA capacity if the Administrator-of-Record is the Administrator-of-Record at a single nursing facility, the administrator's license is suspended, or revoked, or if the Administrator- of-Record resigns his employment or his employment is otherwise terminated, until such time as another licensed administrator is designated and begins serving as the Administrator-of-Record of two-or- more facilities. These facilities shall be owned/managed by the same owner/corporation.~~

~~(c)An individual serving as a CAA shall be employed by the facility full-time in that capacity, regularly-scheduled for 40 hours per calendar week; shall not concurrently serve as the CAA of more than one (1) nursing facility; and shall spend at least eighty (80%) percent of his working time on-site at the facility, equitably distributing his on-site time throughout each calendar week, with emphasis placed on weekdays, Monday through Friday, between the hours of 9:00 a.m. and 5:00 p.m.~~A CAA:

(1) May serve at only one (1) nursing facility at a time;

(2) Must spend at least 80% of working time on-site at the facility;

(3) Must equitably distribute on-site time throughout each calendar week at the facility;

(4) Place emphasis on weekdays, Monday through Friday, between 9:00 a.m. and 5:00 p.m. for on- site hours.

PART 3. APPLICATION FOR CERTIFICATION AND REQUIREMENTS FOR CONTINUED ELIGIBILITY

310:679-15-8. Application process [AMENDED]

~~(a) Applicants for approval as a certified assistant administrator~~ CAA applicants must ~~shall~~ complete required training, fill out the online application completely and correctly, upload required documentation, and pay the applicable application fee. ~~apply online, supplying all required documentation and shall pay a non-refundable application fee. Once the application is complete and the applicant has completed the required training and passed the appropriate examination(s), the applicant will be required to pay the non-refundable fee referenced at OAC 490:1-7-2(x) before being placed on the agenda for Board certification determination.~~

~~(b) An application for 'certifying' an individual to serve in the capacity of a CAA is valid consistent with the time constraints for NHA licensure following completion of training (see OAC 490:10-1-3 and 10-3-1).~~

~~(c) An application shall be determined complete when:~~

~~(1) the criminal background check is received;~~

~~(2) all documentation required for the application has been received; and~~

~~(3) the application fee prescribed at OAC 490:1-7-2 has been remitted and the monies credited to the Board's account with the State Treasurer.~~

~~(d) Once an application is determined complete, the applicant must then meet the remaining requirements for certification found in this Chapter.~~

310:679-15-9. Approval process [REVOKED]

~~(a) Upon verification of compliance with all requirements, the Board shall 'certify' an individual as having met, as of the date of the certification, the minimum requirements to be eligible to serve as a CAA within a single nursing facility, one which is administered by a licensed nursing home administrator who is serving as the administrator-of-record for that facility and for one-or-more additional licensed facilities within a 50-mile radius of each other and wherein the total~~

~~number of occupied beds at all such facilities administered by this Administrator-of-Record does not exceed 120.~~
~~(b) The applicant shall be presented to the Board for consideration at the next Board meeting. Applicants are encouraged to attend the Board meeting.~~
~~(c) Certified applicants will receive a certificate documenting the Board's decision at the Boardmeeting if they are present or it will be mailed within 7 business days.~~
~~(d) As of the date the Board 'certifies' that an individual applicant meets the minimum requirements for that individual to serve in the capacity of an Assistant Administrator, the individual may serve in such an unlicensed capacity. However, it shall be the obligation of the Administrator-of-Record to subsequently verify that the individual serving as an Assistant Administrator continues to meet the minimum qualifications for continued certification (i.e. criminal background check and current employment in the industry as a supervisor). The administrator of record shall also require completion of CEUs in accordance with provisions in OAC 490:1-9-4, as a condition of employment, and a mechanism to ensure the assistant is current and professionally trained.~~

310:679-15-10. Requirements for certified assistant administrators [AMENDED]

(a) ~~As of the effective date of these rules, an individual~~ A certified ~~as an~~ assistant administrator ~~is required to continue to meet the minimum requirements to maintain their certification. They shall be~~ is required to renew their certification annually during the ~~Board's~~ annual renewal period~~, starting in 2012, following Board established renewal processes and paying the prescribed renewal fees. Failure to renew shall be treated in the same manner as lapsed licenses are treated by the Board and the certification vacated following this same process.~~

(b) ~~Certified Assistant Administrators~~ CAAs who are not working as certified assistant administrators ~~are responsible for accomplishing~~ must complete the minimum annual CEU ~~employment~~ requirements to remain qualified and ~~are responsible~~ to renew their ~~own~~ certification ~~with the Board~~.

[OAR Docket #24-707; filed 6-27-24]

TITLE 320. OKLAHOMA HISTORICAL SOCIETY
CHAPTER 15. OKLAHOMA HERITAGE PRESERVATION GRANT PROGRAM

[OAR Docket #24-724]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
320:15-1-1. Purpose [AMENDED]
320:15-1-3. Definitions [AMENDED]
Subchapter 2. Grant Applications
320:15-2-1. Eligibility [AMENDED]
320:15-2-2. Grant selection weighted criteria [AMENDED]
320:15-2-3. Application process [AMENDED]
AUTHORITY:
Heritage Preservation Act; 53 O.S. Section 411-417; Oklahoma Historical Society
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 27, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:

January 24, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 31, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The Oklahoma Heritage Preservation Grant Program provides financial assistance to cities, counties, tribal governments, and nonprofit historical organizations to operate and improve the effectiveness of museums and historical organizations. The purpose of the Oklahoma Heritage Preservation Grant Program is to encourage the collecting, preserving, and sharing of Oklahoma history. Changes to 320:20-1-3 change the term "third-party consultant" to "third-party vendor." Proposed changes to 320:15-2-1 include increasing the eligibility threshold for an organization's operating budget from $500,000 to $750,000 and increasing the minimum and maximum amount of allowable grant funds requested to account for inflation. Changes to 320:15-2-2(3) will add phrasing/clarity to weighted criteria by stating that the institutional readiness of the applicant organization will address "the applicant organization's capacity to complete the project." Changes to 320:15-2-2(4) will change to weight from three (3) to five (5) on "implementation of project." Changes to 320:15-2-3 clean up self-imposed requirements to disseminate notice of the grant cycle and outline the process for contract extension requests. Additional changes to the rules are limited to grammatical and consistency improvements.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

320:15-1-1. Purpose [AMENDED]

The Oklahoma Historical Society, a state agency and private membership organization, may set aside funds each year to assist organizations that collect, preserve, and share collections associated with Oklahoma history. The objectives of the program include:

(1) Encourage improvement in the care of collections, a higher quality of exhibits, and the expansion of Oklahoma history programs at the local level, where a sense of community and the spirit of volunteerism are assets that can be tapped for historical purposes.
(2) Foster a learning process that brings together trained, experienced museum and archival professionals with avocational volunteers and part-time employees who want to improve care of collections, learn techniques of preservation, and expand educational programs.

320:15-1-3. Definitions [AMENDED]

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

"Administrative Rules Liaison" means or refers to the OHS staff member that has been designated by the OHS Executive Director to serve as the liaison to the Office of Administrative Rules (OAR) in the Oklahoma Secretary of State's Office. They shall act as liaison between the OHS and the OAR in all matters concerning documents submitted by the OHS. All documents submitted by the OHS shall be coordinated through the liaison~~,~~ and require the verification and signature of the liaison.

"Authorizing official" means or refers to the individual authorized on behalf of the institution to approve the submission of proposals and accept any resulting project grants or contracts.

"Capital Improvement" means or refers to a durable upgrade, adaptation, or enhancement of a property that increases its value, often involving a structural change. Provided, however, it does not include any improvements to items in collections~~,~~ or collections care, nor any modification or improvements made to exhibits or installing exhibits.

"Cash match" means or refers to the money that the applicant organization will provide toward the project. This money can be from a number of sources~~.~~: examples include~~:~~ general operations, ~~donation~~ donations, or a fundraiser. Cash match would not include the salary of a full-time staff member already working for the applicant organization. Matching funds must be expended after the grant contract is signed.

"Collections" means or refers to ~~the~~ objects, photographs, manuscripts, videos, audio recordings, maps, periodicals, microforms, books, vertical files, archaeological material, historic buildings, or oral histories.

"Conserved" means or refers to the act of stabilizing or protecting an artifact or archival collection.

"County government" means or refers to Oklahoma county governments as defined in Oklahoma law.

"Exhibits" means or refers to the public display, either physical or online, of collections with contextual interpretation informing the public on the topic being explored.

"Historic ~~Buildings~~ buildings" means or refers to a structure listed or eligible for listing on the National Register of Historic Places.

"Indirect costs" means or refers to an organization's overhead, administrative, or other expenses not directly related to the project and also possibly supporting other projects or functions. An example of this would be another division of the applicant organization managing the financial aspects of the grant and wanting a percentage of the grant funds to pay for the financial overhead costs incurred.

"Key staff" means or refers to the staff member(s) or individual(s) who will play a major role in the proposed project.

"Libraries with special collection(s)" means or refers to historical collections held by libraries that may include anything other than published books.

"Major component" means or refers to the mission of the institution and the inclusion of Oklahoma history.

"Municipal government" means or refers to Oklahoma municipalities as defined in Oklahoma law.

"Not-for-profit historical organization" means or refers to museums, historic sites, historical associations, historic preservation organizations, archives, libraries with special collections, or genealogical associations. These organizations must be located in the state of Oklahoma, be registered and in good standing with the Oklahoma Secretary of State as a domestic not for profit corporation, and feature Oklahoma history as a major component of their mission.

"OHS" means or refers to the Oklahoma Historical Society.

"OHS project teams" means or refers to employees or volunteers under the jurisdiction of the Oklahoma Historical Society who may serve as consultants or contractors to the grant recipient to accomplish all or part of an awarded project.

"OHS staff review committee" means or refers to the OHS staff members selected by the OHS Executive Director who will evaluate applications based on the weighted criteria and adherence to program requirements. The OHS Grants Administrator is excluded from appointment to this committee and has no grant decision-making power.

"Oklahoma Heritage Preservation Grant Review Committee" means or refers to the committee appointed by the Oklahoma Historical Society Board President and confirmed by the Oklahoma Historical Society Board of Directors. As authorized by 53 O.S. Section 416(a) this committee will be made up of no less than five (5) and no more than seven (7) individuals.

"Oklahoma Historical Society Board of Directors" means or refers to the governing body of the Oklahoma Historical Society as authorized by 53 O.S. Section 1.6.

"Organizational ~~Development~~ development" means or refers to training for board and staff, professional assistance with organizational issues, improving governance structures, volunteer or membership program development, and assessments or strategic plans (including paid facilitators/consultants).

"Operating budget" means or refers to the most recent operating budget approved for the applicant organization. This budget shall include staff salaries but exclude non-reoccurring costs. Applicants of tribal or municipal governments may use the operating budget of the division in which the project will take place. If an applicant organization is a sub-entity of tribal or municipal government but is a historical organization (museum, historic site, historical association, archive, library with special collection or genealogical association), they will use the sub-entity's operating budget. Support organizations must use the operating budget of the primary beneficiary of the grant funds, regardless of the funding source of that operating budget. Libraries with special collections may use the operating budget allotted to special collections. An example of this would be a city government applying for a grant to digitize historic maps. This applicant would use the operating budget for the division ~~which~~ that oversees archives, not the entire budget of the city government.

"Programs" means or refers to organized educational activities available to the public. Examples of this might include a tour, lecture series, or workshop.

"Project" means or refers to an inclusive term to convey any eligible proposal.

"Publications" means or refers to publishing content of an educational nature in print or electronic form. For this purpose, publications would not include paid advertisements or invitation cards.

"Repair" means or refers to fix or mend a thing suffering from damage or fault, or refers to fixing or repairing of facilities, not the repair of items in collections.

"Strategic plan" means or refers to an organization's process of defining its strategy, or direction, and making decisions on allocating its resources to pursue this strategy. The applicant organization's strategic plan should address the following: organization's mission statement, setting of goals, long-range planning, and an action plan for accomplishing goals.

"Support groups" means or refers to a not-for-profit organization whose purpose is to support the mission and provide financial support to the applicant organization. This term could also include friend's groups or foundations. An example of this would be a library operated by an institute of higher learning having a friend's group that supports the organization through applying for grants, receiving and managing donations, or hosting donor events.

"Theme" means or refers to broad categories of Oklahoma history such as "American Indian," "Transportation," or "Military."

"Third-party ~~consultant~~vendor" means or refers to a contracted third party who conducts work for the grant recipient as it relates to the project grant funds awarded.

"Tribal government" means or refers to federally recognized American Indian tribes located in Oklahoma.

SUBCHAPTER 2. GRANT APPLICATIONS

320:15-2-1. Eligibility [AMENDED]

(a) **Eligible Entities.** Only entities that meet the following eligibility requirements shall be considered for a grant:

(1) Applicants must be municipal, county, or tribal governments, not-for-profit historical organizations as defined in section 320:15-1-3, or a support group of a municipal, country, or tribal government or a not-for-profit historical ~~organizations~~ organization.

(2) Applicant organizations must be engaged in the collection, preservation, and sharing of collections that may include but are not limited to: objects, photographs, manuscripts, videos, audio recordings, maps, periodicals, microforms, books, vertical files, archaeological material, or historic buildings.

(3) Applicant organizations must have a strategic plan for their organization. If an organization does not have a strategic plan, the only project that will be eligible for consideration is the development of a strategic plan.

(4) Applicant organizations must have an operating budget under ~~$500,000~~ $750,000.

(b) **Eligible Projects.** Only projects that meet the following eligibility requirements shall be considered for a grant.

(1) The minimum amount requested shall be $1,000, and the maximum amount requested shall be ~~$20,000~~ $25,000, with the exception of grant requests for the development of a strategic plan, which shall be a minimum of $~~500~~ $1,000 to and a maximum of $5,000.

(2) Applicants requesting $5,000 to ~~$20,000~~ $25,000 in grant funds must provide a cash match of ten (10) percent of the total grant funds distributed by the OHS. Applicants requesting less than $5,000 must provide a financial match (cash or in-kind) of ten (10) percent of the total grant funds distributed by the OHS.
(3) Proposed projects must be completed within twelve (12) months of receipt of grant contract.

(c) **Ineligible Project Expenses.** The following expenses will not be eligible for grant funding:
(1) Repair, maintenance, or expansion of facilities (projects affecting a facility that is directly related to collections, collections care, or exhibits will be considered)
(2) Rent or mortgage payments
(3) Utilities or insurance
(4) Salaries, wages, or benefits for employees (project-specific salaries will be considered)
(5) Creation of new monuments, sculptures, murals, or other works of art, unless it serves as an integral part of a larger exhibit
(6) Acquisition of real estate
(7) Landscaping or site work, unless it serves as an exhibit, an integral part of an exhibit, or educational program
(8) Planning for new construction
(9) Indirect costs
(10) Projects to remodel or modernize building interiors unrelated to collections, collections care, or exhibit construction.
(11) Fundraising events
(12) Entities utilizing federal and/or state historic tax credits for proposed project.
(13) Historic preservation projects that are part of a federal undertaking

320:15-2-2. Grant selection weighted criteria [AMENDED]

All project proposals will be evaluated and ranked using the following weighted criteria:
(1) Historical importance of the collections or theme of the applicant organization as defined by the most current OHS Historic Context Review Report (available upon request), which is in effect at the time of the solicitation of proposals. This criteria shall be weighted at a factor of three (3).
(2) Project potential, which may include~~,~~ fulfilling a demonstrated need in the community or for the applicant organization, economic impact on community or organization, publicly accessible product/service, project sustainability, possible impact on the scope of collections, or produces measurable outcomes. This criteria shall be weighted at a factor of five (5).
(3) Institutional readiness of applicant organization, which ~~may~~ will address the following: applicant organization's capacity to complete the project. This may also include past accomplishments, programming/activities, facilities, base of support, strength of organizational strategic plan, community engagement, participation of board members/volunteers, accessibility to the public, or record of collecting experience/care. This criteria shall be weighted a factor of three (3).
(4) Implementation of project, which may include a clear and comprehensive explanation of the project, a clear explanation of how the project will be accomplished, development of project budget based on vendor quotes or market-based research, identification of staff, volunteer, and/or third-party vendor responsibilities, identification of deadlines, method for gauging project impact, or ability to complete project within one year. This criteria shall be weighted at a factor of ~~three (3)~~five (5).
(5) Organizational impact, which may include a description of how the project fits into the long-term goals or strategic plan of the applicant organization, a description of how the project will increase the ability to attract and diversify future funders, and the ability to capitalize on the project's success to springboard into future projects/collaborations. This criteria shall be weighted at a factor of three (3).
(6) Failure to meet requirements from past Heritage Preservation Grant award (if applicable). This criteria shall be weighted at a factor of negative two (-2).

320:15-2-3. Application process [AMENDED]

(a) **Requests for project proposals.** Requests for project proposals shall be distributed at such times as determined by the OHS in the manner provided below.
(b) **Notification, solicitation, and deadlines.** Notification of availability of funds, solicitation of proposals, and deadlines for the receipt of application shall be provided, but not limited to, the following organizations or via the following methods:
~~(1) Oklahoma Museums Association~~
~~(2) Oklahoma Department of Libraries~~

~~(3)~~(1) Oklahoma Historical Society website
~~(4)~~(2) Press Release

(c) **Funding.** The total amount of funds to be granted, as well as specific grants awarded, will be based on appropriations, unless a revenue shortfall reduces appropriations to the OHS. If this occurs, funds granted will be deducted by the proportionate percentage of the shortfall to the Oklahoma Historical Society's appropriations.

(d) **Typical projects.** The following serve as examples of projects that would be eligible for funding. Some of these projects may be accomplished by a grant recipient's staff and/or volunteers, with payments available every quarter or month based on completed work. Some may be accomplished through OHS project teams that work as ~~consultants~~ vendors to the grant recipients. Still other projects may be completed through third-party consultants who are paid quarterly or monthly based on work completed.

(1) Storage, management, and/or care of collections
(2) Conducting, transcribing, or cataloging oral histories
(3) Digital conversion of historical collections (copyright and fair use will be the responsibility of the applicant organization, however the OHS reserves the right to not fund digitization projects for which there are concerns about copyright).
(4) Preservation assessments
(5) Emergency Preparedness Efforts
(6) Environmental assessments and monitoring systems
(7) Exhibit research, writing, graphic design, fabricating, mounting, and installation
(8) Production or installation of audio/visual components of exhibits
(9) Governance capacity building, including board development, constitution and bylaws, or policies and procedures
(10) Strategic plan/succession planning
(11) Board, staff, and volunteer training
(12) Public programs, such as guided tours, classes, or lectures
(13) Publications
(14) Historical markers
(15) Website development
(16) Educational workshops
(17) Acquisition of collections
(18) Archeological/architectural/historical surveys
(19) Archaeological ~~field work~~fieldwork
(20) Preservation covenant/easement preparation

(e) **Application requirements.** Application forms will be available online through the Oklahoma Historical Society's website following the announcement of solicitation of proposals. This form must be submitted online following the instructions on the website. Applicants with questions regarding the application may contact the OHS Grants office. Any staff member(s) designated to facilitate the grant program will not be part of the evaluation or award decision process.

(1) The following information ~~will~~ may be requested in the application:
(A) Project name
(B) Organization with name and contact information of authorizing official
(C) Organization status (non-profit, governmental entity, tribal)
(D) Filing number with the Oklahoma Secretary of State, if applicant organization is a domestic not-for-profit.
(E) Organization type (museum, historic site, historical society, library with special collection, or archive, etc.)
(F) Organization description (including, if applicable, existing programs, scope and approximate number of collections, visitation, sources of financial support, participation of board members, and total membership)
(G) Accessibility to the public (this may include hours of operation, website, social media, workshops, or regularly scheduled meetings)
(H) Key staff/volunteers (if applicable) and board members
(I) Project summary
(J) Plan for project and organizational sustainability
(K) Project cost
(L) Amount requested
(M) Source of ten (10) percent financial match

(N) Strategic plan (not applicable if grant request is for strategic plan development)
(O) Organization's annual budget
(P) Timeline of project
(Q) Date board of directors approved submitting a project proposal
(R) Proposed project budget which shall account for items outlined in project narrative, account for applicant organization's ~~cash~~ financial match, and include quotes from vendors or use of market research to formulate a budget
(S) Any other information as may be requested

(2) OHS staff will evaluate all project proposals and certify whether each meets the minimum eligibility requirements. Incomplete applications or applications received after the application deadline will not be considered.

(3) Only one completed application will be considered per organization each grant selection cycle.

(f) **Draft application.** Applicant organizations may voluntarily send a draft application to the Grants Administrator for feedback. This draft application must be sent following the guidelines and due date found on the OHS website. Participation in the draft application feedback will not guarantee funding, nor will non-participation negatively affect an organization's ability to receive funding. The applicant organization is able to accept or disregard in whole or part the recommendations offered by the Grants Administrator. It is important to remember that the Grants Administrator does not have grant decision-making authority.

(g) **Application evaluation and awards.**

(1) The OHS staff review committee appointed by the OHS Executive Director~~,~~ shall rank the proposed projects using the weighted criteria. The OHS staff member(s) designated to facilitate the program and grant application process will be excluded from appointment to this committee.

(2) Using the established weighted criteria (320:15-2-2[1-6]), a rating of one (1) to five (5) will be applied to each criteria, with one (1) signifying minimum value and five (5) signifying maximum value. The rating then will be multiplied by the weight assigned to each criteria to determine a total value. In making the list for recommendation, the OHS staff review committee shall evaluate based on the weighted criteria and adherence to statutory and regulatory program requirements. These requirements are geographic balance, local financial match, the existence of a strategic plan for the applicant organization, tribal division, or governmental department, as well as~~,~~ consideration of failure to meet requirements from past Oklahoma Heritage Preservation Grant awards.

(3) The OHS Executive Director shall submit the staff evaluations and accompanying recommendations to the Oklahoma Heritage Preservation Grant Review Committee for review and recommendation to the full Board.

(4) The OHS Board of Directors will make the final decision of which projects will be funded, the amount of each grant, and the number of organizations to receive a grant. In awarding grants the Board will, in accordance with statutory requirements, give preference to projects affecting collections, educational programs, and exhibits (53 O.S. Section 415). Because the grant application procedure(s) are not individual proceedings, the awarding of grants by the Board is not subject to appeal under the Administrative Procedures Act.

(5) The OHS will initiate a contract with each grant recipient. Modifications to project scope or project budget, in excess of ten percent of any line item/spending category will require prior approval in writing from OHS ~~executive director~~Executive Director. A contract extension may be granted by the OHS on a case-by-case basis and must be approved in writing.

(6) The Grants Administrator may contact the applicant organization for clarification or for additional information regarding an application.

(7) No employee of the OHS shall act as an individually paid third-party vendor for a project with an applicant organization that receives grant funds.

(h) **Payment procedures.** Where applicable, payments for projects, programs, services, or activities for the Heritage Preservation Grant Program will be made according to the Central Purchasing Act (74 O.S. Section 85.1 et seq.) and Central Purchasing Rules as established by the Oklahoma Office of Management and Enterprise Services Administrative rules OAC 260:115. Grant recipients must submit documentation for completed work and invoices to receive reimbursement as the project moves forward. All reimbursements will be made after proof that work has been completed.

(i) **Audit.**

(1) The grantee shall retain all books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any contract with the State, the successful grant recipient agrees any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution and performance of the resultant contract.

(2) The successful grant recipient is required to retain records relative to the contract for the duration of the contract and for a period of seven (7) years following completion and/or termination of the contract. If an audit, litigation, or other action involving such records is started before the end of the seven (7) year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

[OAR Docket #24-724; filed 7-1-24]

TITLE 320. OKLAHOMA HISTORICAL SOCIETY
CHAPTER 20. OKLAHOMA CIVIL RIGHTS TRAIL GRANT PROGRAM [NEW]

[OAR Docket #24-723]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions [NEW]
320:20-1-1. Purpose [NEW]
320:20-1-2. Applicability [NEW]
320:20-1-3. Definitions [NEW]
Subchapter 2. Grant Applications [NEW]
320:20-2-1. Eligibility [NEW]
320:20-2-2. Grant selection weighted criteria [NEW]
320:20-2-3. Application process [NEW]
AUTHORITY:
Oklahoma Historical Society; Heritage Preservation Act; 53 O.S. Section 502(b)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 27, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
January 24, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 31, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The new chapter establishes rules for the Oklahoma Civil Rights Trail Grant Program per the requirements of 53 O.S. Section 502(b). The program will provide financial assistance to municipal, county, and tribal governments, as well as nonprofit organizations, to assist organizations that highlight Oklahoma's contributions to the Civil Rights Movement. The purpose of the Oklahoma Civil Rights Grant Program is to connect All-Black towns and locations significant to the Civil Rights Movement in Oklahoma, including many Native American sites of historical significance, stimulating tourism, fostering entrepreneurship, and promoting economic development within these communities. The rules address the following: the purpose of the program, eligibility, criteria, and the application process, requirements, evaluation, and awards.
CONTACT PERSON:
Nicole Harvey, Director of Strategic Initiatives/Rules Liaison nicole.harvey@history.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS [NEW]

320:20-1-1. Purpose [NEW]

The Oklahoma Historical Society, a state agency and private membership organization, shall utilize funds appropriated by the Oklahoma State Legislature, federal funds, and gifts and donations deposited to the Oklahoma Civil Rights Trail revolving fund to assist organizations that highlight Oklahoma's contributions to the Civil Rights Movement. The objectives of this program include:

(1) Connecting All-Black towns and locations significant to the Civil Rights Movement in Oklahoma, including many Native American sites of historical significance, stimulating tourism, fostering entrepreneurship, and promoting economic development within these communities.
(2) All-Black towns and locations on the Oklahoma Civil Rights Trail include, but are not limited to:
(A) Standing Bear Park, Museum, and Education Center, Ponca City
(B) The 1920s "Osage Reign of Terror," Fairfax
(C) Boley, OK
(D) Brooksville, OK
(E) Clearview, OK
(F) Grayson, OK
(G) Langston, OK
(H) Lima, OK
(I) Red Bird, OK
(J) Rentiesville, OK,
(K) Summit, OK
(L) Taft, OK
(M) Tatums, OK
(N) Tullahassee, OK
(O) Vernon, OK
(P) Honey Springs Battlefield, Checotah
(Q) Cabin Creek Battlefield, Big Cabin
(R) Greenwood Rising and the Pathway to Hope, Tulsa
(S) Clara Luper Center, Oklahoma City

320:20-1-2. Applicability [NEW]

The rules in this chapter shall be applicable to the Oklahoma Historical Society's Oklahoma Civil Rights Trail Grant Program as authorized by 53 O.S. Sections 501-503.

320:20-1-3. Definitions [NEW]

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

"Administrative Rules Liaison" means or refers to the OHS staff member that has been designated by the OHS Executive Director to serve as the liaison to the Office of Administrative Rules (OAR) in the Oklahoma Secretary of State's Office. They shall act as liaison between the OHS and the OAR in all matters concerning documents submitted by the OHS. All documents submitted by the OHS shall be coordinated through the liaison and require the verification and signature of the liaison.

"Authorizing official" means or refers to the individual authorized on behalf of the institution to approve the submission of proposals and accept any resulting project grants or contracts.

"Capital improvement" means or refers to a durable upgrade, adaptation, or enhancement of a property that increases its value, often involving a structural change. Provided, however, it does not include any improvements to items in collections or collections care, nor any modification or improvements made to exhibits or installing exhibits.

"Collections" means or refers to objects, photographs, manuscripts, videos, audio recordings, maps, periodicals, microforms, books, vertical files, archaeological material, historic buildings, or oral histories.

"Conserved" means or refers to the act of stabilizing or protecting an artifact or archival collection.

"County government" means or refers to Oklahoma county governments as defined in Oklahoma law.

"Exhibits" means or refers to the public display, either physical or online, of collections with contextual interpretation informing the public on the topic being explored.

"Grant cycle" means or refers to the period during which an awarded organization is eligible to receive reimbursements for their approved project costs.

"Historic buildings" means or refers to a structure listed or eligible for listing on the National Register of Historic Places.

"Indirect costs" means or refers to an organization's overhead, administrative, or other expenses not directly related to the project and possibly supporting other projects or functions. An example of this would be another division of the applicant organization managing the financial aspects of the grant and wanting a percentage of the grant funds to pay for the financial overhead costs incurred.

"Key staff" means or refers to the staff member(s) or individual(s) who will play a major role in the proposed project.

"Libraries with special collection(s)" means or refers to historical collections held by libraries that may include anything other than published books.

"Major component" means or refers to the mission of the institution and the inclusion of Oklahoma history.

"Municipal government" means or refers to Oklahoma municipalities as defined in Oklahoma law.

"Nonprofit organization" means or refers to a nonprofit corporation that has obtained a Oklahoma Certificate of Incorporation Not for Profit Corporation from the Oklahoma Secretary of State. These organizations must be located in the state of Oklahoma, be registered and in good standing with the Oklahoma Secretary of State as a domestic not for profit corporation, and feature Oklahoma history as a major component of their mission. A nonprofit organization can also mean or refer to a nonprofit incorporated through tribal government and recognized by the IRS.

"OHS" means or refers to the Oklahoma Historical Society.

"OHS project teams" means or refers to employees or volunteers under the jurisdiction of the Oklahoma Historical Society who may serve as consultants or contractors to the grant recipient to accomplish all or part of an awarded project.

"OHS staff review committee" means or refers to the OHS staff members selected by the OHS Executive Director who will evaluate applications based on the weighted criteria and adherence to program requirements. This committee must include the State Historian and at least one individual from the State Historic Preservation Office. The Administrator of this grant program is excluded from appointment to this committee and has no grant decision-making power.

"Oklahoma Civil Rights Trail" means or refers to the All-Black towns and other significant locations designated as part of the trail.

"Oklahoma Civil Rights Trail Grant Review Committee" means or refers to the committee appointed by the Oklahoma Historical Society Board President and confirmed by the Oklahoma Historical Society Board of Directors. This committee will be made up of no less than five (5) and no more than seven (7) individuals.

"Oklahoma Historical Society Board of Directors" means or refers to the governing body of the Oklahoma Historical Society as authorized by 53 O.S. Section 1.6.

"Organizational development" means or refers to training for board and staff, professional assistance with organizational issues, improving governance structures, volunteer or membership program development, and assessments or strategic plans (including paid

"Programs" means or refers to organized educational activities available to the public. Examples of this might include a tour, lecture series, or workshop.

"Project" means or refers to an inclusive term to convey any eligible proposal.

"Publications" means or refers to publishing content of an educational nature in print or electronic form. For this purpose, publications would not include paid advertisements or invitation cards.

"Repair" means or refers to fix or mend a thing suffering from damage or fault, or refers to fixing or repairing of facilities, not the repair of items in collections.

"State Historian" means or refers to the OHS staff member named as the State Historian by the OHS Executive Director.

"State Historic Preservation Office" or **"SHPO"** means or refers to the division of the OHS, responsible, in partnership with the U.S. Department of the Interior's National Park Service and local governments, for carrying out the mandates of the National Historic Preservation Act in Oklahoma. The SHPO works with citizens and groups throughout the state to identify, evaluate, and protect Oklahoma's diverse range of historic, architectural, and archaeological resources.

"Third-party vendor" means or refers to a contracted third party who conducts work for the grant recipient as it relates to the project grant funds awarded.

"Tribal government" means or refers to federally recognized American Indian tribes located in Oklahoma.

SUBCHAPTER 2. GRANT APPLICATIONS [NEW]

320:20-2-1. Eligibility [NEW]

(a) **Eligible Entities**. Eligible entities must benefit a location designated on the Oklahoma Civil Rights Trail to be considered for a grant and be one of the following as defined in section 320:20-1-3:

(1) Municipal government,
(2) County government
(3) Tribal government
(4) Nonprofit organization

(b) **Eligible Projects.** Only projects that meet the following eligibility requirements shall be considered for a grant.

(1) The minimum amount requested shall be one thousand dollars ($1,000.00), and the maximum amount requested shall be fifty thousand dollars ($50,000.00).
(2) Proposed projects must be completed within twelve (12) months of the beginning of the grant cycle.
(3) Project extensions may be granted by the Administrator of the program on a case-by-case basis.

(c) **Ineligible Project Expenses**. The following expenses will not be eligible for grant funding:

(1) Rent or mortgage payments
(2) Utilities or insurance
(3) Salaries, wages, or benefits for employees (project-specific salaries will be considered)
(4) Acquisition of real estate
(5) Planning for new construction
(6) Fundraising events
(7) Entities utilizing federal and/or state historic tax credits for proposed project.
(8) Historic preservation projects that are part of a federal undertaking
(9) Indirect costs
(10) Repairs to correct structural deficiencies

320:20-2-2. Grant selection weighted criteria [NEW]

All project proposals will be evaluated and ranked using the following weighted criteria:

(1) Educational impact, which may include historic context, exhibits, programming of the proposed project of the applicant organization. This criteria shall be weighted at a factor of five (5).
(2) Project potential, which may include, fulfilling a demonstrated need in the community or for the applicant organization, economic impact on community or organization, publicly accessible product/service or produces measurable outcomes. This criteria shall be weighted at a factor of five (5).

(3) Institutional readiness of applicant organization, which may include past accomplishments, programming/activities, facilities, base of support, strength of organizational strategic plan, community engagement, participation of board members/volunteers, accessibility to the public, or record of collecting experience/care. This criteria shall be weighted a factor of three (3).
(4) Implementation of project, which may include a clear and comprehensive explanation of the project, a clear explanation of how the project will be accomplished, development of project budget based on vendor quotes or market-based research, identification of staff, volunteer, and/or third-party vendor responsibilities, identification of deadlines, method for gauging project impact, or ability to complete project within fifteen (15) months. This criteria shall be weighted at a factor of three (3).
(5) Project sustainability, which may include plans for maintenance, regular upkeep, and continued public access. This criteria shall be weighted at a factor of three (3).
(6) Failure to meet requirements from past Oklahoma Civil Rights Trail Grants (if applicable). This criteria shall be weighted at a factor of negative two (-2).

320:20-2-3. Application process [NEW]
(a) **Requests for project proposals.** Requests for project proposals shall be distributed at such times as determined by the OHS in the manner provided below.
(b) **Notification, solicitation, and deadlines.** Notification of availability of funds, solicitation of proposals, and deadlines for the receipt of application shall be provided, but not limited to the following organizations or via the following methods:
(1) Oklahoma Historical Society website
(2) Press Release
(c) **Funding.** The total amount of funds to be granted, as well as specific grants awarded, will be based on legislative appropriations, federal funds, and gifts and donations to the Oklahoma Civil Rights Trail revolving fund. If insufficient funds exist, the OHS reserves the right to forego administration of the Oklahoma Civil Rights Trail grant program until a time when funds become sufficient.
(d) **Typical Projects.** The following serve as examples of projects that would be eligible for funding. Some of these projects may be accomplished by a grant recipient's staff and/or volunteers, with payments available every quarter or month based on completed work. Some may be accomplished through OHS project teams that work as consultants to the grant recipients. Still, other projects may be completed through third-party vendors who are paid quarterly or monthly based on work completed.
(1) Enhancements and/or repairs to:
(A) Visitor centers
(B) Museums
(C) Exhibits
(2) Signage
(3) Educational plaques
(4) Historical markers
(5) Construction of visitor amenities (i.e., reflection or contemplation area, walking trail, parking, restrooms)
(6) Storage, management, and/or care of collections
(7) Conducting, transcribing, or cataloging oral histories
(8) Digital conversion of historical collections (copyright and fair use will be the responsibility of the applicant organization, however, the OHS reserves the right to not fund digitization projects for which there are concerns about copyright).
(9) Preservation assessments
(10) Exhibit research, writing, graphic design, fabricating, mounting, and installation
(11) Production or installation of audio/visual components of exhibits
(12) Public programs, such as guided tours, classes, or lectures
(13) Publications
(14) Website development
(15) Educational workshops
(16) Acquisition of collections
(17) Archeological/architectural/historical surveys
(18) Archaeological field work
(19) Preservation covenant/easement preparation

(e) **Application requirements.** Application forms will be available online through the Oklahoma Historical Society's website following the announcement of solicitation of proposals. This form must be submitted online following the instructions on the website.

(1) The following information may be requested in the application:

(A) Project name

(B) Organization with name and contact information of authorizing official

(C) Organization status (non-profit, governmental entity, tribal)

(D) Filing number with the Oklahoma Secretary of State if applicant organization is a domestic nonprofit

(E) Organization description (including, if applicable, existing programs, visitation, sources of financial support, participation of board members, and total membership)

(F) Accessibility to the public (this may include hours of operation, website, social media, workshops, or regularly scheduled meetings)

(G) Key staff/volunteers (if applicable) and board members

(H) Project summary

(I) Project plans/specs, if applicable

(J) Plan for project sustainability

(K) Project cost

(L) Amount requested

(M) Strategic plan, if available

(N) Timeline of project

(O) Date board of directors approved submitting a project proposal, if applicable

(P) Proposed project budget, which shall account for items outlined in project narrative and include quotes from vendors or use of market research to formulate budget

(Q) If the application includes a property that is a National Historic Landmark it must meet the Secretary of the Interior's Standards for rehab and a scope of work and National Park Service project approval will be required for the application to be considered.

(R) Any other information as may be requested

(2) OHS staff will evaluate all project proposals and certify whether each meets the minimum eligibility requirements. Incomplete applications or applications received after the application deadline will not be considered.

(3) Only one completed application will be considered per organization each grant cycle.

(f) **Application evaluation and awards.**

(1) The OHS staff review committee appointed by the OHS Executive Director, shall rank the proposed projects using the weighted criteria. The OHS staff member(s) designated to facilitate the program and grant application process will be excluded from appointment to this committee.

(2) Using the established weighted criteria (320:20-2-2[1-6]), a rating of one (1) to five (5) will be applied to each criteria, with one (1) signifying minimum value and five (5) signifying maximum value. The rating will then be multiplied by the weight assigned to each criteria to determine a total value. In making the list for recommendation, the OHS staff review committee shall evaluate based on the weighted criteria and adherence to statutory and regulatory program requirements. These requirements are geographic balance, local financial match, the existence of a strategic plan for the applicant organization, tribal division, or governmental department, as well as consideration of failure to meet requirements from past Oklahoma Civil Rights Trail grant awards.

(3) The OHS Executive Director shall submit the staff evaluations and accompanying recommendations to the Oklahoma Civil Rights Trail Grant Review Committee for review and recommendation to the full Board.

(4) The OHS Board of Directors will make the final decision of which projects will be funded, the amount of each grant, and the number of organizations to receive a grant. Because the grant application procedure(s) are not individual proceedings, the awarding of grants by the Board is not subject to appeal under the Administrative Procedures Act.

(5) The OHS will initiate a contract with each grant recipient. Modifications to project scope or project budget, more than ten percent of any line item/spending category, will require prior approval in writing from OHS Executive Director.

(6) No employee of the OHS shall act as an individually paid third-party vendor for a project with an applicant organization that receives grant funds.

(g) **Payment procedures.** Where applicable, payments for projects, programs, services, or activities for the Oklahoma Civil Rights Trail Grant program will be made according to the Central Purchasing Act (74 O.S. Section 85.1 et seq.) and Central Purchasing Rules as established by the Oklahoma Office of Management and Enterprise Services Administrative rules OAC 260:115. Grant recipients must submit documentation for completed work and invoices to receive reimbursement as the project moves forward. All reimbursements will be made after proof that work has been completed.

(h) **Audit.**

(1) The grantee shall retain all books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any contract with the State, the successful grant recipient agrees any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution and performance of the resultant contract.

(2) The successful grant recipient is required to retain records relative to the contract for the duration of the contract and for a period of seven (7) years following completion and/or termination of the contract. If an audit, litigation, or other action involving such records is started before the end of the seven (7) year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

[OAR Docket #24-723; filed 7-1-24]

TITLE 330. OKLAHOMA HOUSING FINANCE AGENCY
CHAPTER 80. HOUSING STABILITY PROGRAM [NEW]

[OAR Docket #24-710]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. GENERAL PROVISIONS [NEW]
330:80-1-1. Purpose [NEW]
330:80-1-2. Authority [NEW]
330:80-1-3. Scope [NEW]
330:80-1-4. Definitions [NEW]
330:80-1-5. Technical assistance [NEW]
330:80-1-6. Compliance with applicable laws [NEW]
Subchapter 3. FUNDS [NEW]
330:80-3-1. Funds distribution [NEW]
330:80-3-2. Funding activities [NEW]
330:80-3-3. Award of funds [NEW]
330:80-3-4. Forms of assistance [NEW]
330:80-3-5. Terms and conditions [NEW]
330:80-3-6. Affordability for OHSP funding [NEW]
330:80-3-7. Allocation of OHSP program funds [NEW]
Subchapter 5. APPLICATIONS AND SELECTION [NEW]
330:80-5-1. Application timing [NEW]
330:80-5-2. Applications [NEW]
330:80-5-3. OHSP Application Packets [NEW]
330:80-5-4. Application selection [NEW]
Subchapter 7. PROGRAM ADMINISTRATION [NEW]
330:80-7-1. Program violations [NEW]
330:80-7-2. Corrective and remedial actions [NEW]
330:80-7-3. Awardee responsibilities [NEW]
330:80-7-4. Review and appeals process and Board of Trustees' discretion [NEW]
330:80-7-5. OHFA's responsibilities [NEW]

AUTHORITY:

Oklahoma Housing Finance Agency; Title 74:2903.1-2903.5

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 20, 2023
COMMENT PERIOD:
January 16, 2024 through February 16, 2024
PUBLIC HEARING:
February 16, 2024
ADOPTION:
February 28, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 28, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
Subchapter 1. GENERAL PROVISIONS [NEW]
330:80-1-1. Purpose [NEW]
330:80-1-2. Authority [NEW]
330:80-1-3. Scope [NEW]
330:80-1-4. Definitions [NEW]
330:80-1-5. Technical assistance [NEW]
330:80-1-6. Compliance with applicable laws [NEW]
Subchapter 3. FUNDS [NEW]
330:80-3-1. Funds distribution [NEW]
330:80-3-2. Funding activities [NEW]
330:80-3-3. Award of funds [NEW]
330:80-3-4. Forms of assistance [NEW]
330:80-3-5. Terms and conditions [NEW]
330:80-3-6. Affordability for OHSP funding [NEW]
330:80-3-7. Allocation of OHSP program funds [NEW]
Subchapter 5. APPLICATIONS AND SELECTION [NEW]
330:80-5-1. Application timing [NEW]
330:80-5-2. Applications [NEW]
330:80-5-3. OHSP Application Packets [NEW]
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330:80-7-1. Program violations [NEW]
330:80-7-2. Corrective and remedial actions [NEW]
330:80-7-3. Awardee responsibilities [NEW]
330:80-7-4. Review and appeals process and Board of Trustees' discretion [NEW]
330:80-7-5. OHFA's responsibilities [NEW]
GUBERNATORIAL APPROVAL:
January 25, 2024
REGISTER PUBLICATION:
41 Ok Reg 568
DOCKET NUMBER:
24-331
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

HB 1031 required the promulgation of rules to begin the administration of the Housing Stability Program. Emergency Rules have been promulgated and adopted. Permanent Rules are now required to replace those.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS [NEW]

330:80-1-1. Purpose [NEW]

The purpose of the Oklahoma Housing Stability Program ("OHSP") is to:

(1) Provide financing to Increase the number of Single-Family residences available for purchase across the State of Oklahoma for individuals and families by creation of the Oklahoma Homebuilder Program and the Homebuilder Revolving Fund.

(2) Provide gap financing to aid and incentivize the production of rental housing across the State of Oklahoma by creation of the Oklahoma Increased Housing Program and the Oklahoma Increased Housing Revolving Fund.

(3) Remove the barrier to homeownership for Oklahomans caused by the lack of available funds for down payment and closing costs associated with buying a home.

330:80-1-2. Authority [NEW]

The OHSP is authorized by House Bill number 1031/74 O.S., Section 2903.1-2903.5 of Title 74, as amended. Oklahoma Housing Finance Agency ("OHFA") has been designated as the State's administrative agency for purposes of administering the Housing Stability Program. When a conflict exists between these Rules and the State Statute, the State Statute shall control.

330:80-1-3. Scope [NEW]

During each year, Funding may be made available to eligible Applicants for the purpose of implementing specific Activities that further the purpose of the Program, subject to funding availability.

330:80-1-4. Definitions [NEW]

Masculine words, whenever used in this Chapter, shall include the feminine and neuter, and the singular includes the plural, unless otherwise specified. The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"Activity" means any Development or eligible Funding Activity allowed under this Chapter's Rules.

"Affiliate" means any Person that directly or indirectly through one (1) or more intermediaries, Controls, is Controlled By, or is Under Common Control With any other Person.

"Applicant" means any Person and each Affiliate of such Person, who has submitted an Application to OHFA seeking Funding under this Chapter. Applicant includes the Owner, any other Person or entity having any right, title, or interest in the Development or Activity, and any other successors in interest.

"Application" means an Application, in the form prescribed by OHFA, from time to time, including all exhibits and other materials filed by an Applicant with OHFA in support, or in connection with Funding under this Chapter. OHFA will solicit formal public input on the Application, and provide explanation of any significant changes. Staff will present the proposed Application to the Trustees for approval at a Trustee's meeting.

"Application Packet" means the Application in the form prescribed by OHFA, together with instructions and such other materials provided by OHFA to any Person requesting the same for the purpose of seeking to obtain from OHFA any OHSP funding.

"Awardee" means any Person receiving OHSP Funding through OHFA.
"Control" or **"Control"** or **"Controls"** or **"Controlling"** or **"Controlled by"** or **"Under Common Control With"** means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any other Person, whether through an ownership interest in the other Person, by contract, agreement, understanding, designation, office or position held in or with the other Person or in or with any other Person, or by coercion, or otherwise.
"Development" means the Land and one (1) or more buildings, structures, or other improvements now or hereafter constructed or located upon the Land. If more than one (1) building is to be part of the Development, each building must be financed under a common plan.
"Homebuilder Revolving Fund" means a fund that shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the OHFA from appropriations, donations, grants, or other sources of funding specifically designated for deposit to the Homebuilder Revolving Fund.
"Housing Stability Program Documents" or **"Documents"** or **"OHSP Documents"** means and may include, but is not limited to, the written agreement, loan agreement, promissory note, and OHSP Application Packet.
"Land" means the site(s) for each building in the Development.
"OHFA" means Oklahoma Housing Finance Agency, a State beneficiary public trust.
"OHSP Application Packet" means the Application and accompanying forms developed periodically by OHFA staff.
"OHSP Funds" or **"Funds"** or **"Funding"** means any monies for the OHSP Program.
"Oklahoma Homebuilder Program" means a loan program for homebuilders at interest rates as low as zero percent (0%), providing loans to build single family housing units.
"Oklahoma Housing Stability Program" or **"OHSP"** or **"Program"** means the Oklahoma Housing Stability Program.
"Oklahoma Increased Housing Program" means a program that shall help both developers and homebuyers; developers may apply for gap financing in building both single family and multi-family homes for rent across the state. Homebuyers may apply for a grant assisting in making their down payment in purchasing a home.
"Oklahoma Increased Housing Revolving Fund" means a fund that shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the OHFA from appropriations, donations, grants, or other sources of funding specifically designated for deposit to the Oklahoma Increased Housing Revolving Fund.
"**Participating lender**" means any state bank, national banking association, savings and loan association, building and loan association, mortgage banker or other financial institution, or holding company thereof, or governmental agency which provides services for, or otherwise aids in, the financing of single family residences by means of mortgage loans and which is approved by OHFA.
"Person" means, without limitation, any natural person, corporation, partnership, limited partnership, joint venture, limited liability company, limited liability partnership, trust, estate, association, cooperative, government, political subdivision (including, but not limited to, incorporated towns, cities, and counties, their trusts and authorities, and state trusts), agency or instrumentality, interlocal cooperative, nonprofit and for-profit organizations, Native American Tribes (including, but not limited to, housing authorities and trusts) or other organization of any nature whatsoever, and shall include any two or more Persons acting in concert toward a common goal, or any other legally recognized entity, or any combination of the foregoing acting in concert.
"State" means the State of Oklahoma.
"State Statute" means 74 O.S., Sections 2903.1-2903.5, as amended.
"Term of Affordability" means the length of time a Development or Activity must satisfy the OHSP requirements as determined in the OHSP Application Packet.
"Trustees" means the Board of Trustees of OHFA.

330:80-1-5. Technical assistance [NEW]
OHFA will designate staff members who shall be available to provide general technical assistance regarding proposed Activity concepts and OHSP Program implementation.

330:80-1-6. Compliance with applicable laws [NEW]
(a) The Applicant, the Development, the Owner(s), Development Team and the Affiliates of each, must comply with all applicable federal, State and local laws, rules, regulations and ordinances, including but not limited to, the Oklahoma Landlord Tenant Act, Titles VI and VII of the Civil Rights Act of 1964, as amended and Title VIII of the Civil Rights Act of 1968, as amended. Neither the Applicant, the Owners(s), the Development Team nor the Affiliates of each shall discriminate on the basis of race, creed, religion, national origin, ethnic background, age, sex, familial status, or disability

in the lease, use or occupancy of the Development or in connection with the employment or application for employment of Persons for the operation and/or management of any Development. Owners(s) of a Development will be required to covenant and agree in the regulatory agreement to comply fully with the requirements of the Fair Housing Act as it may from time to time be amended, for the time period promised in the Application.
(b) Any awards by OHFA are subject to compliance with all applicable federal and State laws and all rules and regulations promulgated thereunder and all local ordinances, rules and regulations applicable to the Development, its financing, or any portion or aspect thereof.
(c) The Applicant and all members of the Development team and the Affiliates of each must be in compliance with, and good standing under, any OHFA program in which any may participate.

SUBCHAPTER 3. FUNDS [NEW]

330:80-3-1. Funds distribution [NEW]

(a) OHFA's Board of Trustees shall award Funds through a formal Application process. Submission requirements for Applications will be developed and amended periodically by OHFA's Board of Trustees and described in the published OHSP Application Packet.
(b) OHSP Funds will be awarded according to the State Statute, this Chapter's Rules, and the OHSP Application Packet.

330:80-3-2. Funding activities [NEW]

Eligible Funding Activities may include, but are not limited to:
(1) New construction of rental and homeownership units.
(2) Down payment and/or closing costs assistance for eligible homebuyers.
(3) Costs to administer the program.
(4) Other activities related to housing.

330:80-3-3. Award of funds [NEW]

OHFA's Board of Trustees will make awards of OHSP Program Funds to Activities located throughout the State. Any funding priorities will be established in the Application Packet. 75% of the funds will be set-aside for proposed developments located in Non-Metropolitan Statistical Areas or rural areas as defined by the US Dept of Agriculture (rural areas) and the remaining 25% of the funds will be set-aside for proposed developments located in Metropolitan Statistical Areas (urban areas).

330:80-3-4. Forms of assistance [NEW]

Funding may be in the form of either grants or collateralized below market rate loans. The maximum amounts will be established in the OHSP Application Packet. OHFA's Board of Trustees reserves the right to adjust loan maximums and terms based on the availability of Funds and the most efficient and practical utilization of available resources.

330:80-3-5. Terms and conditions [NEW]

The terms for all awards made shall be subject to the specific requirements of any given Application. The terms will be established in the OHSP Application Packet.

330:80-3-6. Affordability for OHSP funding [NEW]

Housing funded by this program may be subject to a Term of Affordability for a specific period as established in the Application. Affordability periods may be secured by deed restrictions, covenants running with the land, or other forms.

330:80-3-7. Allocation of OHSP program funds [NEW]

(a) From time to time Funds may become available as the result of:
(1) Activity cancellations;
(2) Activities completed under original cost estimates;
(3) Loan pay-offs;
(4) Other circumstances;
(5) Accrued interest income.

(b) In keeping with the State Statute, this Chapter's rules, and the OHSP Application Packet, OHFA shall allocate these Funds to eligible Activity proposals.

SUBCHAPTER 5. APPLICATIONS AND SELECTION [NEW]

330:80-5-1. Application timing [NEW]

Applications for Funding shall be accepted based on deadlines or processes in the Application Packet. Awards will be subject to Funds availability, and the full satisfaction of all key Application requirements. OHFA reserves the right to suspend acceptance of Applications at any time.

330:80-5-2. Applications [NEW]

Eligible Applicants seeking OHSP Funds for the purposes of development must submit an Application in the form prescribed in the OHSP Application Packet. All Applications will be required to contain sufficient information to permit OHFA to conduct a review, assessment, and selection as described in the OHSP Application Packet. Homebuyers seeking funding from OHSP for down payment and closing cost assistance must apply to an OHFA Participating Lender.

330:80-5-3. OHSP Application Packets [NEW]

(a) OHSP Application Packets may include, but not be limited to, information such as Activity descriptions, timelines and schedules, demonstration of financial capacity, Activity evaluation criteria, and Activity budgets.
(b) Applications shall be required for all Funding requests.

330:80-5-4. Application selection [NEW]

For the purpose of selecting Applications for assistance, OHFA shall use criteria established in the OHSP Application Packet.

SUBCHAPTER 7. PROGRAM ADMINISTRATION [NEW]

330:80-7-1. Program violations [NEW]

The following are violations of the Housing Stability Program:

(1) The filing of false information in an Application and/or any report;
(2) Failure of an Applicant and/or Awardee to meet requirements of the State Statute, and/or Chapter 80 Rules and/or the Application Packet;
(3) Deviation from any OHSP Documents;
(4) Notice by OHFA that significant corrective actions are necessary and that those corrective actions are not or cannot be affected within a reasonable time, in the judgment of OHFA staff;
(5) An administrative or judicial determination that an Applicant and/or Awardee has committed fraud, waste, or mismanagement in any current or prior Activity, or federal or State program.

330:80-7-2. Corrective and remedial actions [NEW]

(a) Under any of the circumstances previously described as violations during any stage in the process OHFA may, but is not limited to, take the following actions:

(1) Condition OHSP Documents;
(2) Withhold Funds;
(3) Reduce the total amount of the award;
(4) Require immediate return of unexpended Funds;
(5) Require immediate repayment of all Funding provided by the OHSP;
(6) Cancel an award and recover (through all available legal measures) all Funds expended in an ineligible manner prior to the date of notice of cancellation;
(7) Deny future Program Applications and participation for a specified period of time as determined by OHFA;
(8) Debarment from the Program;

(b) Additionally, OHFA reserves the right under circumstances of possible Program violations to request information regarding:

(1) The administrative, planning, budgeting, management, and evaluation function actions being taken to correct or remove the cause of the Program violation(s);

(2) Any activities undertaken that were not in conformance with the approved Program or Application process, or that are in non-compliance with applicable laws or rules;
(3) The Applicant and/or Awardee capacity to carry out the approved or proposed Program in a timely manner; and,
(4) Progress schedules for completing approved or proposed activities.
(c) Prior to OHFA taking any corrective and/or remedial actions, OHFA, may, in its sole discretion, issue a notice of show cause hearing. The Applicant and/or Awardee shall have seven (7) business days to appear and show cause as to why the corrective and/or remedial actions should not be taken. This language shall not be construed as a limitation on the compliance monitoring and reporting requirements of the OHSP Program and these Chapter 80 Rules.

330:80-7-3. Awardee responsibilities [NEW]
(a) An Awardee under the OHSP shall be responsible to:
(1) Comply with the terms of the OHSP Documents and shall have the responsibility to ensure that any subcontractors also perform their tasks in compliance with all of the OHSP documents and agreements. The Awardee shall ensure that all equipment suppliers or materialmen of any sort whatsoever shall install the items or equipment they contracted to provide and that said items or equipment is properly installed and works up to contractual requirements, or works as reasonably expected under the circumstances, and provide installation or labor up to contractual standards or as is reasonably expected under the circumstances.
(2) Comply with all State Statutes, these OHSP rules, and any OHSP Documents that may be released by OHFA from time to time.
(3) Maintain records and accounts, including, but not limited to property, personnel, and financial records that properly document and account for all Funds. OHFA may require specific types and forms of records. All such records and accounts shall be made available upon request by OHFA for the purpose of inspection and use in carrying out its responsibilities for administration of the Funds.
(4) Retain all books, documents, papers, records, and other materials involving all activities and transactions related to the award of the OHSP Funds for at least three (3) years from the date of substantial completion of any development awarded with OHSP funds, or until any audit findings have been resolved, whichever is later, if applicable. As often as deemed necessary by OHFA, shall permit OHFA to have full access to and the right to fully examine all such materials.
(5) Promptly return to OHFA, any Funds received under its OHSP Documents that are not obligated as of the final date of the OHSP Documents. Funds shall be obligated only if goods and services have been received as of the final date of the OHSP Document period.
(6) Comply with all applicable State requirements.
(b) OHFA may require a special narrative and/or financial reports in the forms and at such times as may be necessary or required by OHFA. OHFA may require audits pertaining to Awardee as necessary.

330:80-7-4. Review and appeals process and Board of Trustees' discretion [NEW]
(a) Upon completion of its review of all Applications, OHFA will forward OHFA's preliminary Review Report to the contact person identified by the Applicant in the Application.
(b) The Applicant must provide OHFA with any information requested by OHFA in the preliminary Review Report or other clarifying information by the deadline given in the cover letter accompanying the preliminary Review Report. Neither the Staff nor the Trustees will be required to consider a late response to the preliminary Review Report.
(c) In the event the Applicant disputes any matter contained in the preliminary Review Report, including without limitation any finding, determination, recommendation or scoring by OHFA, the Applicant's response to the Review Report must identify with specificity the disputed matter, finding, determination, recommendation, scoring, etc., and the Applicant's reason for disputing same, including any evidence which controverts the Review Report. Any applicable statutes, rules, regulations or ordinances should be cited. Documentary evidence should be attached.
(d) Failure to respond or dispute a finding or determination in the preliminary Review Report shall be deemed the acceptance of the finding or determination by the Applicant.
(e) The Applicant's response to the preliminary Review Report must be in a form as prescribed in the Application Packet.
(f) The Staff of OHFA will consider the Applicant's response to the preliminary Review Report prior to issuing the final Review Report and making its recommendations to the Trustees. The Applicant will be informed of Staff's recommendations prior to the meeting of the Trustees where the Application is being considered. OHFA will forward OHFA's final Review Report to the contact person identified by the Applicant in the Application.
(g) The final Review Report may be adopted by the Trustees, including Staff's recommendations and exclusion of any additional documentation proffered by the Applicant for consideration of the Application by the Trustees.

(h) In the event the Applicant disputes any matter contained in the final Review Report, Applicants must file ten (10) copies of any response(s) to the final Review Report or other information they wish the Trustees to consider not less than five (5) business days prior to the commencement of the meeting where the Application will be considered. In addition to the hard copies, Applicants must submit an electronic version of the response. If both the hard copy and the electronic version are not received, the responses will not be accepted or considered by the Staff or the Trustees.
(i) The Trustees may in their sole discretion allocate Funds to an Activity if the Activity is determined by the Trustees to be in the interests of the State.
(j) A decision by the Trustees will constitute a final order.

330:80-7-5. OHFA's responsibilities [NEW]
(a)OHFA's responsibilities will include, but not be limited to, the following:
(1) Obtain a valid Certificate(s) of Occupancy.
(2) Perform physical inspection of 100% of the OHSP Developments/units according to inspection standards as set forth in the Application. Owner must allow OHFA to perform inspections throughout the construction period for all Developments.
(3) File deed restrictions, covenant running with land or other forms approved by OHFA ensuring the Term of Affordability, if applicable.
(4) Notify in writing the Awardee if staff discovers that the Activity does not comply with the OHSP Rules. In such event, a correction period to supply missing documentation or to correct noncompliance may be allowed.
(b)OHFA will recover the costs of actual expenditures associated with the administration of the Housing Stability Program, including the recovery of indirect costs using the indirect cost rate approved by OHFA's cognizant agency, from appropriations designated for administrative fees, including interest earned on administrative fees.

[OAR Docket #24-710; filed 6-29-24]

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #24-638]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Description of Forms and Instructions
365:1-9-5. Surplus lines forms [AMENDED]
AUTHORITY:
Insurance Commissioner; 15 O.S. § 141.3; 36 O.S. §§ 307.1, 1541, 1641, 6123, 6958-6968; 59 O.S. §§ 358 and 1302.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2023
COMMENT PERIOD:
December 1, 2023 through January 5, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 9, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 9, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024.
FINAL ADOPTION:
June 21, 2024

EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Updates language for a new electronic process for submitting information related to surplus lines quarterly and annual filings and tax payments.
CONTACT PERSON:
Ashley Scott, Rules Liaison (405) 521-6616 ashley.scott@oid.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 9. DESCRIPTION OF FORMS AND INSTRUCTIONS

365:1-9-5. Surplus lines forms [AMENDED]

~~(a)~~ **Surplus lines ~~broker~~ quarterly and annual filings and tax payments~~summary form.~~** The surplus lines ~~broker~~ quarterly and annual filings ~~summary includes~~shall include, but not be limited to, ~~forms that detail~~details on the types of coverages written, the aggregate amount of insurance issued, the gross premiums charged, and the gross return premium. All surplus lines filings and tax payments shall be filed in the electronic database in the form and manner prescribed by the Commissioner and in accordance with any instructions set forth on the Department's website. ~~Form SL-3a must be signed by the broker, notarized, and filed on or before the last day of the month following the close of a calendar quarter. The specific forms are:~~

~~(1) SL-3a Affidavit of a true and correct report. File in one-part.~~
~~(2) SL-3b Spreadsheet to accumulate premium and tax data by the company number and company name of the surplus line carrier. File in one-part only.~~
~~(3) SL-3c Affidavit of coverage. File in one-part.~~
~~(4) SL-3d Affidavit for return of premiums and the credit or refund of premium taxes.~~

~~(b) **Surplus lines direct placement by an insured summary form.** The direct placement by an insured summary includes forms that detail the types of coverages written, the aggregate amount of insurance issued, the gross premiums charged, the gross return premium, and the tax due. Form DSL-3a must be signed by the affiant, generally the individual responsible for procuring risk coverage, notarized and filed within thirty (30) days next succeeding the issuance of evidence of coverage. The specific forms are:~~

~~(1) DSL-3a Affidavit of a true and correct report. File in one-part.~~
~~(2) DSL-3b Spreadsheet to accumulate premium and tax data by the company number and company name of the surplus lines carrier. File in one part only.~~
~~(3) DSL-3c Affidavit of coverage. File in one-part.~~
~~(4) DSL-3d Affidavit for return of premiums and the credit or refund of premium taxes.~~

[OAR Docket #24-638; filed 6-25-24]

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 10. LIFE, ACCIDENT AND HEALTH

[OAR Docket #24-644]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
Part 1. GENERAL PROVISIONS
365:10-1-18. Annual provider directory audit report [NEW]
AUTHORITY:
Insurance Commissioner; 15 O.S. § 141.3; 36 O.S. §§ 307.1, 1541, 1641, 6123, 6958-6968; 59 O.S. § 358 and 1302.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2023
COMMENT PERIOD:
December 1, 2023 through January 5, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 9, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 9, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Sets up timelines and processes for submitting reports required by SB442 (2023).
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. GENERAL PROVISIONS

365:10-1-18. Annual provider directory audit report [NEW]

(a) **Reports of inaccurate information.** Each health benefit plan, as defined in 36 O.S. § 6060.4, shall offer the general public a clearly identifiable and easily accessible way in accordance with 36 O.S. § 6971 to report inaccurate information in the plan's provider directory. No later than two (2) days after receipt of a report of inaccurate information, the plan shall investigate and either verify or update the information.

(b) **Audits and sample size.** Each health benefit plan shall, at least annually, audit its provider directories for accuracy in accordance with 36 O.S. § 6971. Each plan that chooses to audit based on a reasonable sample size of providers shall include in the audit report filed with the Insurance Department the sample size amount and an explanation of the methodology used to determine that the sample size is statistically valid.

(c) **Annual provider directory audit report.**

(1) By March 1, 2025, and by every March 1st thereafter, each insurer of a health benefit plan shall file with the Insurance Department an Annual Provider Directory Audit Report for the preceding calendar year. This Report shall be filed electronically in the manner and form designated by the Insurance Commissioner and in accordance with any instructions posted on the Insurance Department website.

(2) The report shall include at least the following information:

(A) The number of reports of inaccurate information received by each health benefit plan;

(B) The date each report was received;

(C) The date each report was investigated;

(D) The corrective action(s) taken or, if no action is taken, an explanation as to why;

(E) All auditing reports conducted by each plan; and

(F) Any other information the Insurance Commissioner deems necessary.

[OAR Docket #24-644; filed 6-25-24]

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 15. PROPERTY AND CASUALTY

[OAR Docket #24-645]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
365:15-1-3.3. Oklahoma workers' compensation assigned risk insurance plan [NEW]
365:15-1-26. Motor vehicle repairs [NEW]
AUTHORITY:
Insurance Commissioner; 15 O.S. § 141.3; 36 O.S. §§ 307.1, 1541, 1641, 6123, 6958-6968; 59 O.S. §§ 358 and 1302.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2023
COMMENT PERIOD:
December 1, 2023 through January 5, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:
January 9, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 9, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
365:15-1-3.3. Adds in parameters for a third-party designation and direct assignment by the Commissioner for the new risk pool created by statute last year. 365:15-1-26. Adds parameters for Insurers to follow when doing market surveys for body shop repairs.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

365:15-1-3.3. Oklahoma workers' compensation assigned risk insurance plan [NEW]
(a) The third party designated by the Commissioner to develop and administer the Oklahoma workers' compensation assigned risk insurance plan ("Plan") shall prepare and submit such Plan to the Commissioner for approval. The Plan shall provide for the equitable apportionment among insurers of applicants for workers' compensation insurance who are in good faith eligible for, but who are unable to procure through ordinary methods, such insurance. Such Plan shall provide reasonable rules governing the equitable distribution of risks by direct assignment, reinsurance, or otherwise, and their assignment to insurers, and shall provide a method whereby applicants for insurance, insureds, and insurers may have a hearing on grievances and the right of appeal to the Commissioner.
(b) Any insurer interested in becoming a direct assignment carrier shall submit a request for approval to the Commissioner annually and in accordance with the Plan. Such approval request shall be sent to the Department's Rate and Form Division Director. The Commissioner may approve or disapprove, at its discretion, direct assignment carrier status of any individual carrier or all carriers for any reason that is in the best interest of the State or the Plan.
(c) Once the Plan has been approved by the Commissioner and becomes effective, no insurer shall thereafter issue a policy of workers' compensation or employer's liability insurance or undertake to transact such business in this State unless such insurer participates in the Plan.

365:15-1-26. Motor vehicle repairs [NEW]

(a) **"Core Based Statistical Area"** or **"CBSA"** means the geographic area designated by the U.S. Office of Management and Budget based on the most recent census data.

(b) **"Repair facility"** means a motor vehicle repair or motor vehicle glass repair or replacement facility, whichever is applicable.

(c) To establish a competitive price for motor vehicle repairs in accordance with 36 O.S. § 1250.8(H), an insurer shall conduct a market survey of the prices charged for repairs performed in accordance with manufacturing standards by repair facilities within the CBSA the facility performing the repairs is located within or is nearest to. A competitive price shall be an amount equal to or greater than the mean of all of the prices provided to the insurer by repair facilities within the CBSA that are capable of making the repairs in accordance with the applicable manufacturing standards.

(d) Insurers may use automobile collision repair estimating software to establish competitive prices if the software complies with the requirements set forth in 36 O.S. § 1250.8 and this rule.

(e) Market Surveys shall be updated sufficiently to reflect current market conditions.

(f) Upon request by the Department, insurers shall provide copies of the market surveys and all related documentation to the Department within twenty (20) days.

(g) Insurers and their representatives shall not make false or misleading statements about market surveys or competitive prices for motor vehicle repairs to repair facilities, policyholders, or members of the public.

[OAR Docket #24-645; filed 6-25-24]

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 25. OTHER LICENSEES

[OAR Docket #24-646]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Producers, Brokers, Limited Lines Producers, Service Warranties and Vehicle Protection Product Warrantors [AMENDED]
365:25-3-13. Surplus line insurance with non-admitted insurer; approval prior to issuance; collection and remittance of taxes; claims for tax adjustments; procedures; forms [AMENDED]
365:25-3-22. Service warranty quarterly statement filings and fees [NEW]
Subchapter 7. Companies
Part 5. OKLAHOMA INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT
365:25-7-23. Forms: general requirements [AMENDED]
365:25-7-29.1. Transactions subject to prior notice - notice filing (Form D) [AMENDED]
Subchapter 15. Captive Insurance Companies Regulation
365:25-15-1.1. Definitions [AMENDED]
Subchapter 29. Pharmacy Benefit Managers
365:25-29-7.1. Retail pharmacy network access - audit [REVOKED]
365:25-29-8. PBM to file certain financial statements with the Commissioner [AMENDED]
365:25-29-10. Penalty for noncompliance [AMENDED]
365:25-29-14. Inquiry/complaint handling process [REVOKED]
365:25-29-15. Examinations and investigations of PBMs and health insurers [AMENDED]
365:25-29-16. Transparency requirements and aggregate reporting [REVOKED]
AUTHORITY:
Insurance Commissioner; 15 O.S. § 141.3; 36 O.S. §§ 307.1, 1541, 1641, 6123, 6958-6968; 59 O.S. §§ 358 and 1302.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2023
COMMENT PERIOD:
December 1, 2023 through January 5, 2024
PUBLIC HEARING:
January 4, 2024
ADOPTION:

January 9, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 9, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
365:25-3-13. Updates language for a new electronic process for submitting information related to surplus lines quarterly and annual filings and tax payments. 365:25-3-22. Adds new language specifying when quarterly financial statements and fees are due. 365:25-7-23. Updates requirements in the receivership process to be in compliance with accreditation standards. 365:25-7-29.1. Updates requirements in the receivership process to be in compliance with accreditation standards. 365:25-15-1.1. Updates language to include other qualified individuals to be approved by the Commissioner for feasibility studies. 365:25-29-7.1. Removed unnecessary language after enforcement of pharmacy benefit managers ("PBMs") moved to the Attorney General's Office effective November 1, 2023. 365:25-29-8. Removes audited requirement from financial statements. 365:25-29-10. Amended to update language after enforcement of PBMs moved to the Attorney General's Office effective November 1, 2023. 365:25-29-14. Revoked due to changes in statute. 365:25-29-15. Amended to update language due to changes in statute. 365:25-29-16. Revoked due to changes in statute.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. PRODUCERS, BROKERS, LIMITED LINES PRODUCERS, SERVICE WARRANTIES AND VEHICLE PROTECTION PRODUCT WARRANTORS [AMENDED]

365:25-3-13. Surplus line insurance with non-admitted insurer; approval prior to issuance; collection and remittance of taxes; claims for tax adjustments; procedures; forms [AMENDED]

(a) ~~**Purpose.** The purpose of this section is to set forth the requirements regarding the procurement of policies from non-admitted carriers.~~

~~(b)~~**Placement with licensed broker.** No licensed insurance producer, solicitor, broker or general agent shall place, or cause to be placed with any nonadmitted insurer any policy of insurance upon property and/or any other risks, or any insurable interest therein, having a situs in the State of Oklahoma, except through a duly licensed surplus line broker; and, then, any such policy shall only be procured by strict compliance with the applicable statutes of this State and the Rules issued under the authority of the Insurance Department of the State of Oklahoma.

~~(c)~~(b) **Application for placement.**

(1) After procuring any surplus lines insurance, surplus line brokers shall ~~execute and~~ file information relating to the transaction through the electronic database designated by the Commissioner~~affidavits and reports with the Insurance Commissioner as required pursuant to Section 1107 of Title 36 on Form SL-3(a-d)~~. All required fields shall be completed and accompanied with an attestation under penalty of perjury that the information submitted is true and correct, and all filings shall be in accordance with any instructions provided by the Department.~~All Forms SL-3 (a-d)~~Surplus lines brokers shall ~~be retained~~retain copies of all filings ~~in the files of the brokers, to support the policy issued thereunder,~~ for a period of not less than three years.

(2) ~~All applications (Form SL-3) shall be completely filled out and verified under oath by the broker submitted for each policy for which approval for issuance is sought; provided, that in~~In the event any group insurance is determined to constitute a surplus line of insurance, a specific method of reporting additional individual certificates issued or cancelled under such group policy shall be agreed upon between the Insurance Commissioner and the broker concerned.

(3) After procuring surplus lines insurance, an insured filing a direct placement shall ~~execute and~~ file information relating to the transaction through the electronic database designated by the Commissioner~~file affidavits and reports with the Insurance Commissioner as required by 36 O.S. § 1115 on form DSL-3 (a-d)~~. All required fields shall be completed and accompanied with an attestation under penalty of perjury that the information submitted is true and correct, and all filings shall be in accordance with any instructions provided by the Department.

~~(d)~~(c) **Broker tax collection and remittance.**

(1) All taxes due on any insurance policy issued as a surplus line policy, through any non-admitted insurer, shall be collected by the surplus line broker who procures such policy's issuance. Such taxes shall, in each instance be collected in full on or before the issuance of the policy to the insured, except as hereinafter expressly provided for by ~~(b)~~(a) of this section. All such taxes shall be duly remitted to the State of Oklahoma, through the Insurance Commissioner, on or before the end of each month following each calendar quarter by letter of transmittal accompanying such tax remittance.

(2) All premium taxes shall be computed on the total agreed premium due on the policy, applying the rate of tax existing as of the date the premiums in question become payable, which date shall in every instance be deemed to be the date of policy issuance, except in respect to the following specific situations:

(A) A policy issued for a term in excess of one year, with a fixed premium being payable annually, shall be taxed on the first year's premium at the rate effective as of the date of policy issuance. The tax on premiums payable for subsequent years shall be computed at the rate in effect as of the date such subsequent premiums become due and payable, which date shall be deemed for taxation purposes to be the policy anniversary date.

(B) Premium deposits made on policies providing for retrospective premium adjustments shall be deemed to be premiums paid for such policy as of the date of issuance and taxed accordingly, applying the tax rate in effect at date of policy issuance.

(C) Retrospective premium adjustments, made pursuant to the terms of any surplus line policy and requiring the payment of additional premiums by the insured, shall be taxed at the rate effective as of the date such additional premiums become payable, which date shall be deemed to be the date last included in the policy period considered in computing such retrospective premiums. All taxes due to the State of Oklahoma as the result of retrospective premium adjustments shall be collected by the broker concerned and remitted to the Insurance Commissioner within thirty (30) days next succeeding the last date included in the policy period considered in computing such retrospective premium adjustment.

~~(e)~~(d) **Broker tax refunds; warrants.**

(1) Claims for tax refunds on surplus line policies shall be separately submitted ~~on Form SL-3(d), which shall be prepared under oath, and executed by the broker concerned~~ through the electronic database designated by the Commissioner. All required fields shall be completed and accompanied with an attestation under penalty of perjury that the information submitted is true and correct, and the claim shall be in accordance with any instructions provided by the Department. Every ~~such verified~~ claim shall set forth with particularity the circumstances upon which it is predicated. All claims for tax refunds shall be computed at the rate of tax existing at the time the tax in question was paid. ~~Only one claim for tax refund shall be submitted on each Form SL-3(d).~~

Applications for adjustment of erroneously paid taxes shall be deemed to be a claim for tax refund and shall be submitted in the manner prescribed for such claims. ~~Any claim for a tax refund shall be filed following the close of the calendar quarter that contains the policy period considered in computing the tax refund three (3) years from the date of tax payment.~~ The broker shall submit proof of the original payment and proof of the reason for the refund to the Insurance Commissioner. Any claim not filed within this time period shall be barred from ~~ex parte~~ administrative consideration or action by the Insurance Commissioner. ~~Any claim for tax refund which is not timely filed, or any claim for tax refund which is denied by ex parte action of the Insurance Commissioner, may be set down for public hearing upon timely application therefore by the party or parties aggrieved by such claims denial. All applications for hearings involving claims for tax refunds shall be made within the times and in the manner prescribed by statute for other hearings before the Insurance Commissioner.~~

~~(2) All claims for tax refunds shall be promptly acted upon by the Insurance Commissioner. Notice of the allowance or denial of such claims, as are duly submitted in proper form, shall be forwarded to the broker concerned within thirty days next succeeding the receipt of such claims by the Insurance Commissioner.~~

~~(3)~~(2) All warrants issued in refund of premium taxes upon surplus line policies will be issued in the name of the broker who originally submitted the tax in question.

~~(f)~~(e) **Direct Placement Tax Collection and Remittance.**

(1) All taxes due on any insurance policy issued as a direct placement surplus lines policy through any non-admitted insurer shall be collected by the affiant or other representative of the insured who procured such policy's issuance. Such taxes shall, in each instance, be collected in full on or before the issuance of the policy to the insured except as hereinafter expressly provided for by ~~Section 365:25-3-13(f)(2)(B)~~Subsection (e)(2)(B). All such taxes shall be duly remitted to the State of Oklahoma, through the electronic database designated by Insurance Commissioner, within thirty (30) days following the issuance of the policy. The Direct Placement by and Insured Summary shall accompany the tax remittance.

(2) All premium taxes shall be computed on the total agreed premium due on the policy, applying the rate of tax existing as of the date the premiums in question become payable, which date shall in every instance be deemed to be the date of policy issuance, except in respect to the following specific situations:

(A) A policy issued for a term in excess of one year, with a fixed premium being payable annually, shall be taxed on the first year's premium at the rate effective as of the date of policy issuance. The tax on premiums payable for subsequent years shall be computed at the rate in effect as of the date such subsequent premiums become due and payable, which date shall be deemed for taxation purposes to be the policy anniversary date.

(B) Premium deposits made on policies providing for retrospective premium adjustments shall be deemed to be premiums paid for such policy as of the date of issuance and taxed accordingly, applying the tax rate in effect at the date of policy issuance.

(C) Retrospective premium adjustments, made pursuant to the terms of any surplus line policy and requiring the payment of additional premiums by the insured, shall be taxed at the rate effective as of the date such additional premiums become payable, which date shall be deemed to be the date last included in the policy period considered in computing such retrospective premiums. All taxes due to the State of Oklahoma as the result of retrospective premium adjustments shall be collected ~~by the broker concerned~~ and remitted to the Insurance Commissioner within thirty (30) days following the policy period considered in computing such retrospective premium adjustment.

~~(g)~~(f) **Direct Placement-Tax refunds; warrants.**

(1) Claims for tax refunds on surplus lines policies shall be separately submitted ~~on Form DSL-3d, which shall be prepared under oath and executed by the insured or a representative of the insured~~through the electronic database designated by the Commissioner. All required fields shall be completed and accompanied with an attestation under penalty of perjury that the information submitted is true and correct, and the claim shall be in accordance with any instructions provided by the Department. Every ~~verified~~ claim shall set forth with particularity the circumstances upon which it is predicated. All claims for tax refunds shall be computed at the rate of tax existing at the time the tax in question was paid. ~~Only one claim for tax refund shall be submitted on each Form DSL-3d.~~ Applications for adjustment of erroneously paid taxes shall be deemed to be a claim for tax refund and shall be submitted in the manner prescribed for such claims. Any claim for tax refund shall be filed within three (3) years from the date of tax payment. The insured or a representative of the insured shall submit proof of the original payment and proof of the reason for the refund to the Insurance Commissioner. Any claim not filed within this time period shall be barred from ~~ex parte~~ administrative consideration or action by the Insurance Commissioner. ~~Any claim for tax refund that is not timely filed, or any claim for tax refund that is denied by ex parte action of the Insurance Commissioner, may be set down for public hearing upon timely~~

~~application by the party or parties aggrieved by the claim denial. All applications for hearings involving claims for tax refunds shall be made within the times and in the manner prescribed by statute for other hearings before the Insurance Commissioner.~~

~~(2) All claims for tax refunds shall be promptly acted upon by the Insurance Commissioner. Notice of the allowance or denial of such claims, as are duly submitted in proper form, shall be forwarded to the affiant or other representative of the insurance within thirty (30) days next succeeding the receipt of such claims by the Insurance Commissioner.~~

~~(3)~~(2) All warrants issued in refund of premium taxes upon surplus line policies will be issued in the name of the insured that originally paid the tax in question.

~~(h)~~ (g) **Forms.**

~~(1) Surplus line brokers shall reproduce Forms SL-2 and SL-3 in quantities sufficient for their respective requirements.~~

~~(2)~~ The applications and forms required by this section shall be supplementary and in addition to the Annual Statements and Annual Tax Returns required to be filed by each licensed surplus line broker. The Annual Statements and Annual Tax Returns of all surplus line brokers shall be duly filed, according to 36 O.S. § 1114 upon the forms prescribed for such purposes.

365:25-3-22. Service warranty quarterly statement filings and fees [NEW]

(a) Service Warranty Associations and insurers for service warranties shall electronically file quarterly statements and the applicable administrative fee amount required pursuant to 15 O.S. § 141.14(D) in the manner and form prescribed the Commissioner on the Department's website.

(b) The filing deadlines for the quarterly statements and fees are as follows:

(i) First Quarter – No later than April 30 of each year

(ii) Second Quarter – No later than July 31 of each year

(iii) Third Quarter – No later than October 31 of each year

(iv) Fourth Quarter – No later than January 31 of each year

SUBCHAPTER 7. COMPANIES

PART 5. OKLAHOMA INSURANCE HOLDING COMPANY SYSTEM REGULATORY ACT

365:25-7-23. Forms: general requirements [AMENDED]

(a) **Forms A, B, C, D, E, and F.** Forms A, B, C, D, E, and F as set forth in Appendices A, B, N, O, Q, and AA of this Chapter, are intended to be guides in the preparation of the statements required by Sections 1633, 1634, 1635 and 1636 of the Act. They are not intended to be blank forms which are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable, or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) **Filing statements.** Statements shall be filed electronically. Third-party verifications sent by the third party may be filed electronically. A copy of a Form B and C shall be filed in each state in which an insurer is authorized to do business, if the Commissioner of that state has notified the insurer of its request in writing, in which case the insurer has thirty (30) days from receipt of the notice to file such form. Appropriate electronic signatures are permitted. The Commissioner may request a wet signature at his or her discretion. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(c) **Format of statements.** Electronic statements shall meet all technical requirements of the Commissioner. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for reproduction. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on copies. Statements shall be in the English language, and monetary values shall be stated in United States Currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally shall be converted into Unites States Currency.

(d) **Hearings on Consolidated Basis.** If an applicant requests a hearing on a consolidated basis under Section 1633(D)(3) of the Act, in addition to filing the Form A with the commissioner, the applicant shall file a copy a Form A with the National Association of Insurance Commissioners in electronic form.

365:25-7-29.1. Transactions subject to prior notice - notice filing (Form D) [AMENDED]

(a) An insurer required to give notice of a proposed transaction pursuant to Section 1636 of the Act shall furnish the required information on Form D, hereby made a part of this section, as set forth in Appendix O of this Chapter.

(b) Agreements for cost sharing services and management services shall at a minimum and as applicable:

(1) Identify the person providing services and nature of such services;

(2) Set forth the methods to allocate costs;

(3) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;

(4) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;

(5) State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;

(6) Define records and data of the insurer to include all records and data developed or maintained under or related to the agreement that are otherwise the property of the insurer, in whatever form maintained, including, but not limited to, claims and claims files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records or similar records within the possession, custody or control of the affiliate;

(7) Specify that all records and data of the insurer are and remain the property of the insurer, and:

(A) Are subject to control of the insurer;

(B) Are identifiable; and

(C) Are segregated from all other persons' records and data or are readily capable of segregation at no additional cost to the insurer;

(8) State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;

(9) Include standards for termination of the agreement with and without cause;

(10) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services and for any actions by the affiliate that violate provisions of the agreement required in subsection (b)(11), (b)(12), (b)(13), (b)(14), and (b)(15) of this rule;

(11) Specify that if the insurer is placed in supervision, seizure, conservatorship, or receivership pursuant to Articles 18 or 19 of Title 36:

(A) All of the rights of the insurer under the agreement extend to the receiver or Commissioner to the extent permitted by law;

(B) All records and data of the insurer shall be identifiable and segregated from all other persons' records and data or readily capable of segregation at no additional cost to the receiver or the Commissioner;

(C) A complete set of records and data of the insurer will immediately be made available to the receiver or the Commissioner, shall be made available in a usable format, and shall be turned over to the receiver or Commissioner immediately upon the receiver or the Commissioner's request, and the cost to transfer data to the receiver or the Commissioner shall be fair and reasonable; and,

(D) The affiliated person(s) will make available all employees essentials to the operations of the insurer and the services associated therewith for the immediate continued performance of the essential services ordered or directed by the receiver or Commissioner;

(12) Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed into supervision, seizure, conservatorship, or receivership pursuant to Article 18 or 19 of Title 36;

(13) Specify that the affiliate will provide the essential services for a minimum period of time after termination of the agreement, if the insurer is placed into supervision, seizure, conservatorship, or receivership pursuant to Article 18 or 19 of Title 36, as ordered or directed by the receiver or Commissioner. Performance of the essential services will continue to be provided without regard to pre-receivership unpaid fees, so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, Commissioner, or supervising court;

(14) Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure, notwithstanding supervision, seizure, conservatorship, or receivership pursuant to Article 18 or 19 of Title 36, and will make them available to the receiver or Commissioner as ordered or directed by the receiver or Commissioner for so long as the affiliate continues to receive timely payment for post-receivership services rendered, and unless released by the receiver, Commissioner, or supervising court; and

(15) Specify that, in furtherance of the cooperation between the receiver and the affected guaranty association(s) and subject to the receiver's authority over the insurer, if the insurer is placed into supervision, seizure, conservatorship, or receivership pursuant to Article 18 or 19 of Title 36, and portions of the insurer's policies or contracts are eligible for coverage by one or more guaranty associations, the affiliate's commitments under subsections (b)(11), (b)(12), (b)(13), and (b)(14) of this rule will extend to such guaranty association(s).

SUBCHAPTER 15. CAPTIVE INSURANCE COMPANIES REGULATION

365:25-15-1.1. Definitions [AMENDED]

The following words and terms, when used in this subchapter and the Oklahoma Captive Insurance Company Act, shall have the following meaning, unless the context clearly indicates otherwise:

"Business plan" means the business activity of the company designed to accomplish its stated purpose. At a minimum, it must include the following:

(A) identity of the ownership and management;
(B) the type and expected volume of business to be written;
(C) details of any reinsurance agreements to be entered into;
(D) details of any management services or tax allocation agreements; and
(E) financial projections as required per subsection (a)(1)(G) above.

"Feasibility study" means an analysis of the owner/insured's risk profile and financial condition. The analysis must include and consider the following issues, but is not limited to:

(A) a detailed analysis as to how the captive will effect risk management and loss control;
(B) risks to be insured;
(C) recommendations and projections by a qualified independent actuary or any other person approved by the Commissioner of recommended premiums, losses, expenses and retentions;
(D) tax projections;
(E) domicile options that address the impact on operating costs and tax issues;
(F) comparison of a captive program with other viable risk financing alternatives;
(G) five-year pro forma financial statements and projections, analysis of the financial impact of establishing a captive, of any form; and
(H) identification of management procedures, underwriting procedures, managerial oversight methods, investment policies, and reinsurance agreements.

SUBCHAPTER 29. PHARMACY BENEFIT MANAGERS

365:25-29-7.1. Retail pharmacy network access - audit [REVOKED]

~~(a) Standards.~~

~~(1) 36 O.S. §6960 of the act defines **"** retail pharmacy network**"** as meaning retail pharmacy providers contracted with a PBM in which the pharmacy primarily fills and sells prescriptions via a retail, storefront location.~~
~~(2) The act draws no distinction between regular or specialty drugs, both being prescription medications, therefore, specialty drugs fall within the contemplation of the act.~~
~~(3) Pharmacy benefits managers shall not in any manner on any material, including but not limited to mail and ID cards, include the name of any pharmacy, hospital or other providers unless it specifically lists all pharmacies, hospitals and providers.~~
~~(4) For purposes of determining compliance with 36 O.S. § 6961(A) of the act, mileage shall be calculated using distance map and driving directions.~~

~~(b) A PBM's retail pharmacy network access shall be monitored for compliance with the act by those insurers that utilize the services of such PBM. Health insurers are required to maintain retail pharmacy network access in conformity with the requirements set forth in 36 O.S. § 6961 of the act. Each calendar day in a single zip code where a PBM or Insurer has failed to comply with an applicable provision of 36 O.S. § 6961 shall be deemed an instance of violation.~~

~~(1) In conformity with these requirements, each health insurer that utilizes the services of a PBM licensed in this state shall, on a semi-annual basis, complete and submit to the Department its network adequacy audit of the PBMs with which the insurer contracts and/or partners to serve the insurer's members within the State of Oklahoma in a searchable format, in a manner which allows for the data to be organized. A health insurer's Geo~~

~~Access report shall be submitted in the form and manner prescribed by the Commissioner on the Department website and shall be submitted to the Department every April 30 and October 31 of each calendar year.~~

~~(A) A health insurer's GeoAccess report due in April of a calendar year shall cover the time-period of July 1 through December 31 of the immediately preceding calendar year.~~

~~(B) A health insurer's GeoAccess report due in October of a calendar year shall cover the reporting time-period of January 1 through June 30 of the same calendar year in which the report is due.~~

~~(c) PBMs doing business in the State of Oklahoma are required to maintain retail pharmacy network access in conformity with the requirements set forth in 36 O.S. § 6961 of the act. The Department is required by 36 O.S. § 6962 to review and approve retail pharmacy network access for all Oklahoma licensed PBMs. Each calendar day in a single zip code where a PBM has failed to comply with an applicable provision of 36 O.S. § 6961 shall be deemed an instance of violation.~~

~~(1) In conformity with these requirements, each PBM licensed in the State shall, on a semi-annual basis, complete and submit to the Department its Oklahoma PBM Semi-Annual Retail Pharmacy Network Access Report in a searchable format, in a manner which allows for the data to be organized. A PBMs Geo Access report shall be in the form and manner prescribed by the Commissioner on the Department website and shall be due every January 31 and July 31 of each calendar year.~~

~~(A) A PBM's GeoAccess report due in January of a calendar year shall cover the reporting time-period of July 1 through December 31 of the immediately preceding calendar year.~~

~~(B) A PBM's GeoAccess report due in July of a calendar year shall cover the reporting time-period of January 1 through June 30 of the same calendar year in which the report is due.~~

365:25-29-8. PBM to file certain financial statements with the Commissioner [AMENDED]

(a) Before May 1 of each year, every PBM providing pharmacy benefits management shall submit to the Insurance Commissioner a report, which includes the most recently concluded fiscal year-end financial statements for the PBM and report of covered lives, signed by an Executive Officer of the PBM attesting to the accuracy of the information contained in the report form prescribed by the Commissioner. The report shall be ~~audited by an independent certified public accountant (CPA) and~~ prepared using generally accepted accounting principles (GAAP). The report may be supplemented by any additional information required by the Insurance Commissioner.

(b) The Commissioner may extend the time prescribed for filing annual or other reports or exhibits of any kind for good cause shown. However, the Commissioner shall not extend the time for filing annual statements beyond ninety (90) days after the time prescribed by this Section.

365:25-29-10. Penalty for noncompliance [AMENDED]

(a) ~~After notice and opportunity for hearing as provided for in OAC 365:1-7, and upon determining that the PBM has violated any of the provisions of the Patient's Right to Pharmacy Choice Act, the Pharmacy Audit Integrity Act, 59 O.S. §§ 357-360 of the Oklahoma Statutes, or this Subchapter, the Commissioner may censure a PBM, may suspend or revoke a PBM's license. In addition to or in lieu of any censure, suspension or revocation of a license, the Commissioner or the Pharmacy Choice Commission may assess and levy a civil fine of not less than One Hundred Dollars ($100.00) and not greater than Ten Thousand Dollars ($10,000.00) for each violation of a provision of the Patient's Right to Pharmacy Choice Act, the Pharmacy Audit Integrity Act, Sections 357 through 360 of Title 59 of the Oklahoma Statues, or this Subchapter.~~ Each day that a pharmacy benefits manager conducts business in the State of Oklahoma without a license shall be deemed to be an instance of violation. The payment of the penalty may be enforced in the same manner as civil judgments may be enforced.

(b) ~~After notice and opportunity for hearing as provided for in OAC 365:1-7, and upon determining that the health insurer has violated any of the provisions of 36 O.S. §§ 6958-6968 of the Oklahoma Statutes, the Commissioner may suspend or revoke a health insurer's certificate of authority license or assess a civil penalty of not less than One Hundred Dollars ($100.00) no more than Ten Thousand Dollars ($10,000.00) for each instance of violation, or both. The payment of the penalty may be enforced in the same manner as civil judgments may be enforced.~~

~~(c)~~ Every health insurer and PBM upon receipt of any inquiry from the Commissioner or the Commissioner's representative shall, within twenty (20) days from the date of inquiry, furnish the Commissioner or the Commissioner's representative with an adequate response to the inquiry.

365:25-29-14. Inquiry/complaint handling process [REVOKED]

~~(a) Complaints alleging failure by the PBM to comply with the act, shall be made in writing to the Commissioner, supported by evidentiary materials. All complaints must include a completed "PBM Complaint Form" as promulgated by the Commissioner.~~

~~(b) All audits of PBMs by health insurers shall include a review of complaints against the PBM to determine compliance with the terms of the contract between the PBM and the complainant.~~
~~(c) PBMs must provide the complainant with a written notice as to the final disposition of the complaint.~~
~~(d) As part of its response to the Department in connection with every complaint, the PBM must provide a statement to the Department that the complaint was carefully reviewed and could not be resolved under the terms and conditions of the contract.~~

365:25-29-15. Examinations and investigations of PBMs and health insurers [AMENDED]

The Commissioner shall have power and authority to examine and investigate the affairs of every PBM engaged in pharmacy benefits management in the state in order to determine whether it is in compliance with all applicable provisions of Title 15, Title 36 and Title 59 of the Oklahoma Statutes <u>that fall under the regulatory jurisdiction of the Insurance Commissioner</u> and Title 365 of the Oklahoma Administrative Code and may take disciplinary action to enforce the same.

365:25-29-16. Transparency requirements and aggregate reporting [REVOKED]

~~Each PBM licensed in the state shall, on a quarterly basis submit its Oklahoma Pharmacy Benefit Managers Quarterly Data Report to the Department in a searchable format, in a manner which allows for the data to be organized, in a manner and form that is prescribed by the Commissioner on the Department website.~~

~~(1) A PBM Quarterly Report shall be due from each PBM every January 31, April 30, July 31, and October 31 of every calendar year.~~

~~(2) Each report shall cover the three months immediately preceding the month in which the report is due and all requested information shall be filled in as and where indicated on the form.~~

[OAR Docket #24-646; filed 6-25-24]

TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE
CHAPTER 20. SALE AND OPERATION OF HARD ROCK MINING AND OTHER MINERAL LEASES

[OAR Docket #24-714]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
385:20-1-2. Mailing list for notice of lease sale [AMENDED]
385:20-1-11. Fines [REVOKED]
385:20-1-13. Request to offer land for lease; advertising deposit and requirements [AMENDED]
385:20-1-14. Bidding process [AMENDED]
385:20-1-15. Issuance of hard rock or other mineral lease [AMENDED]
385:20-1-16. Lease cancellation [REVOKED]
385:20-1-18. Commission records [REVOKED]
385:20-1-23. Brine Leasing [NEW]
AUTHORITY:
Okla. Const., Art. 6, § 32; Commissioners of the Land Office; 64 O.S. § 1093.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 24, 2023
COMMENT PERIOD:
November 15, 2023 through December 15, 2023
PUBLIC HEARING:
December 20, 2023
ADOPTION:
January 11, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 18, 2024
LEGISLATIVE APPROVAL:

N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The proposed rule amendments revise and modernize rules related to leasing public lands under the management of the Commissioners of the Land Office for the purpose of hard rock mining and extraction of minerals other than oil and natural gas.
CONTACT PERSON:
Bennett Abbott, General Counsel

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

385:20-1-2. Mailing list for notice of lease sale [AMENDED]

Notice of hard rock mining and other mineral lease sales will be posted on the Land Office's official website ~~[See 385:1-1-13]~~. Any person or entity who would like to receive Notices of Sale by electronic mail may do so by submitting a written request to the Land Office.

385:20-1-11. Fines [REVOKED]

~~Any person who violates any of the provisions of 64 O.S. § 1090 et seq. will be subject to a fine of not less than $50.00 or more than $50,000.00 or imprisonment for not less than 30 days or more than 10 years, pursuant to 64 O.S. § 1094.~~

385:20-1-13. Request to offer land for lease; advertising deposit and requirements [AMENDED]

~~(a)~~ Any tract of State School land not under a hard rock mining or other mineral lease will be offered for lease at the earliest scheduled hard rock mining or other mineral lease sale, at the discretion of the ~~Director of the Minerals Management Division~~Secretary. ~~(The~~A firm ~~making the above request will have to~~requesting that a hard rock or other mineral lease be offered shall pay actual cost of advertising if it is the successful bidder, ~~or~~ if no bids are received, or ~~. The firm making the request may be required to pay advertising cost~~ if the bid is rejected.~~)~~

~~(b) The law requires that State School land offered for hard rock mining or other mineral lease must be advertised for 30 days in a newspaper published in the County in which the land is located and for a like period in a paper of general circulation in Oklahoma, after which the bids received will be opened, tabulated, and presented to the Commission at the next regular meeting.~~

~~(c) The successful bidder must pay the cost of advertising~~.

385:20-1-14. Bidding process [AMENDED]

The bid process for school land hard rock mining and other mineral lease sales shall be as follows:

(1) **Separate tracts.** A separate bid showing the tract number and legal description must be filed on each tract. Each tract will be leased separately to the highest responsible bidder.

(2) ~~**Sealed bids**~~ **Public Auction Process**.~~Bids must be written and enclosed in one sealed envelope and placed in another envelope bearing notation on the outside front face of the envelope "Bids for Hard Rock Mining or Other Mineral Leases" and the date of sale. Such bids must be delivered to the office of the Commissioners of the Land Office, and if sent by mail shall be addressed to the official business residence of the Commissioners of the Land Office, as posted on the Land Office's official website [See 385:1-1-13]. (No bid shall be considered that is not delivered prior to date and time of sale, as set forth in the Notice of Sale.)~~Public auctions for hard rock mining and other mineral leases shall be held in the same manner as public auctions for oil and gas leases.

~~(3) **Bid opening.** Bids will be received as provided in the Notice of Sale and are subject to the right of the Commissioners of the Land Office to reject any and all bids. (All bidders are invited to attend opening of bids which is held in the office of the Commissioners of the Land Office.)~~

~~(4) **Bid deposit.** Each bid must be accompanied by a remittance of earnest money as required in the notice of sale, payable to the Commissioners of the Land Office. Upon acceptance of any bid and the awarding of the lease to the bidder, the successful bidder shall be liable for the full amount of the bid.~~

~~(5) **Forms.** Bid forms will be furnished on request.~~

~~(6) **Assignment.** Hard rock mining and other mineral lease bids may not be assigned.~~

~~(7)~~(3) **Total acres.** Each hard rock mining and other mineral lease will be limited to a maximum of 160 acres.

385:20-1-15. Issuance of hard rock or other mineral lease [AMENDED]

(a) **Term of lease.** ~~A successful bidder will be issued a five-year hard rock mining or other mineral lease on form prescribed by the Commissioners, providing for royalty as stated in the Notice of sale.~~The term of a hard rock mining or other mineral lease shall not exceed fifty-five (55) years.

(b) **Lease executions.** All leases and bonds ~~will~~shall be prepared by the Commission and forwarded to the lessee for completion. The lessee shall have 30 days from date of award to execute the lease, post a bond, and pay any moneys due.

(c) **Lease approval.** The tabulation of each hard rock mining or other mineral lease sale ~~will~~shall be presented to the Commissioners at their next regular meeting for approval and consideration of award of leases.

385:20-1-16. Lease cancellation [REVOKED]

~~(a) **Notice.** Upon violation of any of the substantial terms of a hard rock mining or other mineral lease, or the rules and regulations of the Commission pertaining thereto, the Commission shall issue a notice of proposed cancellation by Return Receipt Mail to the last known address of the lessee, specifying said rule or rules, terms or conditions which have been violated.~~

~~(b) **Hearing.** The lessee may, within 15 days from the date of mailing of such notice, request a hearing at which he may show cause, if any he has, why the lease should not be canceled. Upon receipt, by the Secretary of the Commission, of a written request for hearing, the matter shall be set for hearing before an outside Hearing Officer to be selected by the Commissioners, who will set a date, time and place certain for a hearing and the lessee shall be immediately advised thereof by registered mail not less than 15 days prior to such hearing. Prior to the date set for such hearing the lessee may file with the Hearing Officer a written response setting forth the reasons such lease should not be canceled and forfeited. Affidavits, depositions or other written or documentary evidence in support of the matters and things alleged in said response may filed therewith, in which case the lessee need not appear in person or by counsel at the hearing herein provided for and may rest on such written proof. If a hearing is not requested, the Commission may proceed to the cancellation of the lease without further notice to the lessee. The Hearing Officer shall conduct the hearing at the time and place designated, or at the time and place to which said matter is adjourned or continued. At such hearing evidence and oral arguments in support of the alleged violation giving rise to the notice of proposed cancellation and in support of the material allegations of the written response thereto will be heard, such time being allowed therefor as the Hearing Officer shall direct. The Hearing Officer shall make a full report of said hearing to the Commission, orally or in writing, as the Commission may direct. The lessee shall be promptly notified of the decision of the Commission, and the lessee or any other interested party aggrieved by such decision shall be allowed a judicial review to the District Court of the County were the leased premises are situated, in accordance with the provisions of Section 318, Title 75, Oklahoma Statutes; thereupon he procedure and rights involved shall be determined in accordance with the provisions of said Section 318 and~~

~~the following Sections of said Title §§319, 320, 321 and 322, with the right of appeal to the Supreme Court from the lower court's action as provided by Section 323 of said Title 75. The judicial review referred to is to be had by filing a petition therefor in the District Court within 30 days after the appellant had notice of the order, to be appealed from, as provided in said statute. The review shall be conducted by the Court with a jury, and shall be confined to the record.~~

385:20-1-18. Commission records [REVOKED]

~~The Commission will upon the payment of appropriate fee furnish a copy of Commission Records, certified copies of Commission minutes, proofs of publication, and copies of other records, only upon written request. (For charges, see 385:15-1-32.)~~

385:20-1-23. Brine Leasing [NEW]

(a) Brine shall be considered a valuable property interest subject to leasing and to the application of administrative rules.
(b) The Commissioners of the Land Office may offer leases to extract brine from school lands with a royalty rate and lease terms that the Commissioners deem beneficial to the permanent school fund.
(c) Brine leases offered by the Commissioners of the Land Office shall comply with the requirements of the Oklahoma Brine Development Act.

[OAR Docket #24-714; filed 7-1-24]

TITLE 385. DEPARTMENT OF THE COMMISSIONERS OF THE LAND OFFICE
CHAPTER 25. SURFACE LEASING FOR AGRICULTURAL AND COMMERCIAL PURPOSES

[OAR Docket #24-715]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
385:25-1-2. Definitions [AMENDED]
385:25-1-12. Reservations in surface lease; easements [AMENDED]
385:25-1-20. Holdover tenants [AMENDED]
385:25-1-31. Subleasing and adding lessees [AMENDED]
385:25-1-33. Procedure for appraisal of commercial leases [AMENDED]
385:25-1-41. Procedure for Exchanging Land [AMENDED]
AUTHORITY:
Okla. Const., Art. 6, § 32; Commissioners of the Land Office; 64 O.S. § 1093.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 24, 2023
COMMENT PERIOD:
November 15, 2023 through December 15, 2023
PUBLIC HEARING:
December 19, 2023
ADOPTION:
January 11, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 18, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:

August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The proposed rule amendments revise and modernize rules related to leasing public lands under the management of the Commissioners of the Land Office for agricultural and commercial purposes.
CONTACT PERSON:
Bennett Abbott, General Counsel

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

385:25-1-2. Definitions [AMENDED]

In addition to terms defined in 64 O.S. §§ 1023 and 1056 et seq. the following words or terms when used in this Chapter shall have the following meaning unless the context indicates otherwise:

"Commercial lands" means those trust lands which may have a greater value or use which enables it to earn more income per year than if used strictly for agricultural purposes but does not mean investments in real property described by 64 O.S. § 1013(B).

"Commission", "Commissioners", "CLO" or **"Land Office"** means the Commissioners of the Land Office of the State of Oklahoma.

"Fair market value" means the price which the property would bring if offered for sale in the open market by a seller willing but not obligated to sell and a buyer willing but not obligated to buy, both being fully informed of all purposes for which property is best adapted or could be used.

"Fair market rental value" means the annual price in cash a willing but not obligated tenant would pay, and a willing but not obligated landlord would charge for the same or similar lands for the highest and best legal use of the property, agricultural or commercial.

"Improvements" means buildings or other permanent or temporary structures or developments located on or attached to the land.

"Preference right lease" means the right of the lessee holding a lease designated with a preference right that the Commissioners elect to sell during the lease term to purchase the land at the highest bid under a two-tiered bidding system.

"Secretary" means the Secretary of the Commissioners of the Land Office and includes the Assistant Secretary.

"State" means Oklahoma.

"Trust" means the permanent school fund established by OKLA. CONST. Art. XI, §2.

"Trust land" or **"school lands"** means real property owned in whole or in part by the Trust.

"Two-tier bidding system" means a public auction procedure under which a first tier of bidding open to the general public is conducted to establish the highest initial bid. A second tier of bidding is then held in which the preference right lessee can match the bid of the party holding the highest initial bid and any subsequent raises by the initial highest bidder until no higher bid is made or the preference rights lessee refuses to match a raise in bid.

385:25-1-12. Reservations in surface lease; easements [AMENDED]

(a) **Easements.** The State shall reserve for itself, its lessees, permittees or grantees, and their assigns, easements for ingress and egress for any purpose of exploring for, drilling, producing, storing and marketing of oil, gas, coal, and any other minerals which may be produced from said premises, or from other premises communitized with ~~Trust land~~ school lands and for any other purpose the Commissioners deem appropriate for use of the land.
(b) **Permanent and term easements.** Permanent easements may be granted to governmental entities and to railroad companies for expansion of railway lines. All other easements may be granted for a term not to exceed twenty (20) years. Both permanent and term easement(s) must be compensated for at fair market value and shall be approved by the Commissioners but do not have to be offered at public bid. Grantee shall be liable to surface lessee for surface damages to crops or lessee owned improvements.
(c) **Conversion of easement upon sale of land.** If a tract of ~~trust land~~school lands with a term easement (granted for 20 years or less) is sold; prior to such sale, the grantee of the term easement may request the Commissioners to convert the easement to a permanent easement. If the easement is converted to a permanent easement, the Trust shall be compensated for fair market value of the difference in value between the term easement and the permanent easement.
(d) **Rights of way.** Right of way easements will be granted pursuant to law and public policy at not less than fair market value.
(e) **Recreational use.** Agricultural leases include the right of lessee to use the lease for hunting, fishing or other recreational purposes. Lessee may post the property or may allow hunting and fishing. Lessee may retain any fees charged for hunting and fishing rights. This does not violate the subleasing provision of the contract.
(f) **Adding parties to the lease.** Lessees using an agricultural lease primarily for recreational purposes may add lessees to the lease as permitted by this subchapter. Added lessees may farm or ranch the lease as provided by the lease terms.

385:25-1-20. Holdover tenants [AMENDED]
(a) Holdover tenants bound by an agricultural lease shall be billed at a rate and terms of the expired lease contract. Legal proceedings will be brought to remove the holdover tenant from the premises and for payment of accrued rental, interest and costs for the holdover period.
(b) Unless a different holdover rate is specified in the lease, holdover tenants bound by a commercial lease shall be billed at a rate of one hundred fifty (150%) of the rental rate pro-rated on a monthly basis of rental rate in effect immediately preceding the holdover period.

385:25-1-31. Subleasing and adding lessees [AMENDED]
(a) **Prohibition of sublease of an agricultural lease.** Subleasing of an agricultural lease is prohibited.
(b) **Commercial leases.** Commercial leases may be ~~subleased~~sublet as provided in the commercial lease contract.
(c) **Sublease without permission cause for cancellation.** ~~Should lessee sub-lease premises without written permission of the CLO, the lease shall be subject to cancellation and forfeiture at the option of the CLO as provided by law and these rules and regulations.~~Subleasing without the written permission of the Land Office shall be grounds for termination of the lease.
(d) **Application to add lessees.** Lessees may submit a written or electronic application to the Land Office requesting the addition of lessees to an agricultural lease. The Land Office may approve or reject a request to add lessees for any reason.
(e) **Rights and privileges of added lessees.** Additional lessees shall enjoy all the rights and privileges of the agricultural lease but shall also comply with any contractual obligations or restrictions required by the agricultural lease.

385:25-1-33. Procedure for appraisal of commercial leases [AMENDED]
(a) Upon categorization of trust land as commercial and prior to its being offered for lease, an appraisal for fair market value shall be made by appraisers designated by the Land Office on a form acceptable to the Commissioners of the Land Office. Appraisals will be made in accordance with the Uniform Standards of Professional Appraisal Practice.
(b) All leases shall maintain fair market rental value throughout the term of the lease using methods such as escalators, percentage of gross income or reappraisal clauses.
(c) The fair market rental value shall be determined by any reasonable method that is derived from independently verifiable sources and is deemed acceptable by the Secretary.

385:25-1-41. Procedure for Exchanging Land [AMENDED]
(a) **Authorization.** The Commissioners may authorize exchange of lands held in Trust for other lands held by other entities on an equal value basis.
(b) **Criteria.** It is the intent of the CLO to exchange lands held in Trust that are landlocked, too small in size to be an economic unit, low productivity, or transitional properties.

(c) **Appraisal.** An appraisal for market value of the properties to be exchanged will be completed by three duly authorized appraisers. The parties may mutually agree on three appraisers. In the event that the parties cannot mutually agree on three appraisers, the CLO will choose an appraiser, the other entity will choose an appraiser and then the two appraisers will select a third appraiser. The appraisers will determine the market value of the respective properties and make a consensus appraisal report.
(d) **Valuation of Improvements of Agricultural Properties.** The intent of the exchange is for the Trust to receive equal value of land in exchange for equal value of land. Since improvements are a depreciating asset and may be removed by the owner of record and the CLO typically does not own improvements, the appraisal should only consider the value of the lands to be exchanged. Improvements such as waterwells, ponds, terraces, etc. are considered a part of the land and will not be considered within the exchange as a separate item.
(e) **Exchanges for Commercial Properties.** If the entity which is exchanging land with the CLO is exchanging commercial properties the improvements will be included as an essential element of the appraisal.
(f) **Title.** The entity which is exchanging land with the CLO shall provide an abstract of title for examination by the CLO or good and sufficient title insurance for the land being offered in the exchange. The CLO shall provide the entity an official certificate of record for the land owned by the CLO but does not warrant title.
(g) **Deeds.** The entity exchanging land with the CLO will provide a warranty deed for its lands and the CLO shall provide a patent to the entity for ~~the CLO~~school lands acquired at statehood. The CLO shall provide a quit claim deed for school lands acquired after statehood.

[OAR Docket #24-715; filed 7-1-24]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 1. ADMINISTRATION

[OAR Docket #24-725]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Information
450:1-1-1.1. Definitions [AMENDED]
Subchapter 9. Certification and Designation of Facility Services
450:1-9-5.6. Quality clinical standards for facilities and programs [AMENDED]
450:1-9-13. Designated emergency examination sites [AMENDED]
Subchapter 13. Behavioral Health Workforce Development Fund [NEW]
450:1-13-1. Purpose [NEW]
450:1-13-3. Applicability [NEW]
450:1-13-5. Student Loan Repayment [NEW]
450:1-13-7. Tuition Assistance [NEW]
AUTHORITY:
Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-110, 3-306, 3-306.1, 3-314.1, 3-315, 3-317, 3-318, 3-319 and 3-415; 74 O.S. § 85.9G
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 25, 2023
COMMENT PERIOD:
November 15, 2023 through December 15, 2023
PUBLIC HEARING:
December 18, 2023
ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 29, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:

N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
September 1, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
Subchapter 13 [NEW]
450:1-13-1 [NEW]
450:1-13-3 [NEW]
450:1-13-5 [NEW]
450:1-13-7 [NEW]
GUBERNATORIAL APPROVAL:
March 4, 2024
REGISTER PUBLICATION:
41 Ok Reg 682
DOCKET NUMBER:
24-534
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The proposed rule revisions to Chapter 1 add new language to establish criteria, guidelines, and procedures for the disbursement of funds from the Behavioral Health Workforce Development Fund. Revisions also include clean-up changes, including definitions.
CONTACT PERSON:
Melissa Miller, Chief of Policy and Provider Regulation/Administrative Rules Liaison, Melissa.Miller@odmhsas.org or (405) 248-9345

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2024:

SUBCHAPTER 1. GENERAL INFORMATION

450:1-1-1.1. Definitions [AMENDED]

The following words or terms, as defined below, when used in Chapters 1, 15, 16, 17, 18, 21, 23, 24, 27, 30, 50, 53, 55, 60, 65, 70, and 75 shall have the following meaning, unless the context clearly indicates otherwise and will prevail in the event there is a conflict with definitions included elsewhere in Chapters 1, 15, 16, 17, 18, 21, 23, 24, 27, 30, 50, 53, 55, 60, 65, 70 and 75:

"Administrative Hearing Officer" means an individual who is an attorney licensed to practice law in the State of Oklahoma and is appointed by the Commissioner of ODMHSAS to preside over and issue a proposed order in individual proceedings.

"AOA" means American Osteopathic Association.

"Behavioral Health Aide (BHA)" means ~~individuals must have completed sixty (60) hours or equivalent of college credit or may substitute one year of relevant employment and/or responsibility in the care of children with complex emotional needs for up to two years of college experience, and:~~an individual who is credentialed by ODMHSAS to provide therapeutic behavioral services. In order to qualify as a BHA an individual must possess certification as a Behavioral Health Case Manager I and successfully complete training as prescribed by ODMHSAS.

~~(A) must have successfully completed the specialized training and education curriculum provided by the ODMHSAS; and~~
~~(B) must be supervised by a bachelor's level individual with a minimum of two years case management experience or care coordination experience; and~~
~~(C) treatment plans must be overseen and approved by a LBHP or Licensure Candidate; and~~
~~(D) must function under the general direction of a LBHP, Licensure Candidate and/or systems of care team, with a LBHP or Licensure Candidate available at all times to provide back up, support, and/or consultation.~~

"Behavioral Health Case Manager" or **"CM"** means any person who is certified by the ODMHSAS as a Behavioral Health Case Manager pursuant to Oklahoma Administrative Code, Title 450, Chapter 50.

"Board" means the Oklahoma State Board of Mental Health and Substance Abuse Services.

"CARF" means Commission on Accreditation of Rehabilitation Facilities (CARF).

"Certification" means a status which is granted to a person or an entity by the Oklahoma State Board of Mental Health and Substance Abuse Services or the ODMHSAS, and indicates the provider is in compliance with minimum standards as incorporated in OAC 450 to provide a particular service. In accordance with the Administrative Procedures Act, 75 O.S. § 250.3(8), certification is defined as a "license."

"Certified Alcohol and Drug Counselor (CADC)" means Oklahoma certification as an Alcohol and Drug Counselor.

~~**"Certified Behavioral Health Case Manager"** or **"CM"** means any person who is certified by the ODMHSAS as a Behavioral Health Case Manager pursuant to Oklahoma Administrative Code, Title 450, Chapter 50.~~

"Certified facility" means any facility which has received a certification status by the Oklahoma State Board of Mental Health and Substance Abuse Services or the ODMHSAS.

"Certification report" means a summary of findings documented by ODMHSAS related to an applicant's compliance with certification standards.

"COA" means the Council on Accreditation of Services for Families and Children, Inc.

"Consumer" means an individual who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Critical incident" means an occurrence or set of events inconsistent with the routine operations of a facility, service setting, or otherwise routine care of a consumer. Critical incidents specifically include, but are not necessarily limited to the following: adverse drug events; self-destructive behavior; deaths and injuries to consumers, staff, and visitor; medication errors; residential consumers that have absent without leave (AWOL); neglect or abuse of a consumer; fire; unauthorized disclosure of information; damage to or theft of property belonging to consumers or the facility; other unexpected occurrences; or events potentially subject to litigation. A critical incident may involve multiple individuals or results.

"Critical standard" means a standard that ODMHSAS deems to have the potential to significantly impact the safety, well-being, and/or rights of consumers, or consumers' access to appropriate services.

"Discharge summary" means a clinical document in the treatment record summarizing the consumer's progress during treatment, with goals reached, continuing needs, and other pertinent information including documentation of linkage to aftercare.

"Contractor" or **"contractors"** means any person or entity under contract with ODMHSAS for the provision of goods, products or services.

"Employment Consultant (EC)" means an individual who (i) has a high school diploma or equivalent; and (ii) successful completion of Job Coach training.

"Entities" or **"entity"** means sole proprietorships, partnerships and corporations.

"Facilities" or **"facility"** means entities as described in 43A O.S. § 1-103(7), community mental health centers, residential mental health facilities, community-based structured crisis centers, certified services for the alcohol and drug dependent, programs of assertive community treatment, eating disorder treatment, gambling addiction treatment, and narcotic treatment programs.

"Family" means the parents, brothers, sisters, other relatives, foster parents, guardians, and others who perform the roles and functions of family members in the lives of consumers.

~~**"Family Support and Training Provider (FSP)"** means an individual who is credentialed through the ODMHSAS to provide training and support necessary to ensure engagement and active participation of family members during treatment. In order to qualify as an FSP, individuals shall:~~
~~(A) Have a high school diploma or equivalent;~~

~~(B) Be 21 years of age and have successful experience as a family member of a child or youth with serious emotional disturbance, or have lived experience as the primary caregiver of a child or youth who has received services for substance use disorder and/or co-occurring substance use and mental health, or have lived experience being the caregiver for a child with Child Welfare/Child Protective Services involvement;~~
~~(C) Complete Family Support Training according to a curriculum approved by the ODMHSAS and pass the examination with a score of 80% or better;~~
~~(D) Pass an OSBI background check and~~
~~(E) An FSP must also:~~
~~(i) Utilize treatment plans that are overseen and approved by a LBHP or Licensure Candidate; and~~
~~(ii) Function under the general direction of a LBHP, Licensure Candidate or systems of care team, with a LBHP or Licensure Candidate available at all times to provide back up, support, and/or consultation.~~

"Family Peer Recovery Support Specialist" or **"F-PRSS"** means any person who is certified by the Department of Mental Health and Substance Abuse Services as a Family Peer Recovery Support Specialist pursuant to requirements found in OAC 450:53.

"Follow-up" means the organized method of systematically determining the status of consumers after they have been discharged to determine post-treatment outcomes and utilization of post-treatment referrals.

"Governing authority" means the individual or group of people who serve as the treatment facility's board of directors and who are ultimately responsible for the treatment facility's activities and finances.

"Individual proceeding" means the formal process employed by an agency having jurisdiction by law to resolve issues of law or fact between parties and which results in the exercise of discretion of a judicial nature.

"Institutional Review Board" or **"IRB"** means the ODMHSAS board established in accordance with 45 C.F.R. Part 46 for the purposes expressed in this Chapter.

"Intensive Case Manager (ICM)" means an individual who is designated as an ICM and carries a caseload size of not more than twenty-five (25) individuals. They are a LBHP, Licensure Candidate, CADC, or certified as a Behavioral Health Case Manager II, and have~~:~~ a minimum of two (2) years Behavioral Health Case Management experience and crisis diversion experience.

~~(A) a minimum of two (2) years Behavioral Health Case Management experience,~~
~~(B) crisis diversion experience, and~~
~~(C) successfully completed ODMHSAS ICM training.~~

"IRB approval" means the determination of the IRB that the research has been reviewed and may be conducted within the constraints set forth by the IRB and by other agency and Federal requirements.

"Levels of performance" or **"level of performance"** means units of service by types of service.

"Licensed Alcohol and Drug Counselor" or **"LADC"** means any person who is licensed through the State of Oklahoma pursuant to the provisions of the Licensed Alcohol and Drug Counselors Act.

"Licensed Behavioral Health Professional" or **"LBHP"** means:

(A) An Allopathic or Osteopathic Physician with a current license and board certification in psychiatry or board eligible in the state in which services are provided, or a current resident in psychiatry;
(B) An Advanced Practice Registered Nurse licensed as a registered nurse with a current certification of recognition from the board of nursing in the state in which services are provided and certified in a psychiatric mental health specialty;
(C) A Clinical Psychologist who is duly licensed to practice by the State Board of Examiners of Psychologists;
(D) A Physician Assistant who is licensed in good standing in Oklahoma and has received specific training for and is experienced in performing mental health therapeutic, diagnostic, or counseling functions;
(E) A practitioner with a license to practice in the state in which services are provided issued by one of the following licensing boards:
(i) Social Work (clinical specialty only);
(ii) Professional Counselor;
(iii) Marriage and Family Therapist;
(iv) Behavioral Practitioner; or
(vi) Alcohol and Drug Counselor.

"Licensed dietitian" means a person licensed by the Oklahoma Board of Medical Licensure and Supervision as a dietitian.

"Licensed mental health professional" or **"LMHP"**means a practitioner who meets qualifications as defined in Title 43A §1-103(11).

"Licensed physician" means an individual with an M.D. or D.O. degree who is licensed in the state of Oklahoma to practice medicine.

"Licensed practical nurse" means an individual who is a graduate of an approved school of nursing and is licensed in the State of Oklahoma to provide practical nursing services.

"Licensure candidate" means a practitioner actively and regularly receiving board approved supervision, and extended supervision by a fully licensed clinician if board's supervision requirement is met but the individual is not yet licensed, to become licensed by one of the following licensing boards:

(A) Psychology;
(B) Social Work (clinical specialty only);
(C) Professional Counselor;
(D) Marriage and Family Therapist;
(E) Behavioral Practitioner; or
(F) Alcohol and Drug Counselor.

"Minimal risk" means that the probability and magnitude of harm or discomfort anticipated in the research are not greater, in and of themselves, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examination or tests.

"Necessary standard" means a certification standard that ODMHSAS deems important for an entity's overall functioning but generally does not have a significant, immediate impact on consumers.

"ODMHSAS" or **"Department"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Oklahoma Administrative Code" or **"OAC"** means the publication authorized by 75 O.S. § 256 known as The Oklahoma Administrative Code, or, prior to its publication, the compilation of codified rules authorized by 75 O.S. § 256(A)(1)(a) and maintained in the Office of Administrative Rules.

"Paraprofessional" means a person who does not have an academic degree related to the scope of treatment or support services being provided but performs prescribed functions under the general supervision of that discipline.

"Peer Recovery Support Specialist" or **"PRSS"** means an individual certified by ODMHSAS as a Peer Recovery Support Specialist pursuant to requirements found in OAC 450:53.

"Performance improvement" means an approach to the continuous study and improvement of the processes of providing services to meet the needs of consumers and others.

"Probationary certification" means a certification status granted for a one-year period for programs or facilities that have changed majority ownership or majority board composition but operations of the program or facility continue.

"Psychiatrist" means a licensed physician who specialized in the assessment and treatment of individuals having psychiatric disorders and who is fully licensed to practice medicine in the state in which he or she practices and is certified in psychiatry by the American Board of Psychiatry and Neurology, or has equivalent training or experience.

"Registered nurse" means an individual who is a graduate of an approved school of nursing and is licensed in the state of Oklahoma to practice as a registered nurse.

"Rehabilitative services" means face-to-face individual or group services provided by qualified staff to develop skills necessary to perform activities of daily living and successful integration into community life.

"Reimbursement rates" means the rates at which all contractors are reimbursed (paid) for services they provide under their ODMHSAS contract.

"Research" means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute research for purposes of this Chapter, whether or not they are conducted or supported under a program that is considered research for other purposes. For example, some demonstration and service programs may include research activities.

"Respondent" means the person(s) or entity(ies) named in a petition for an individual proceeding against whom relief is sought.

"Sentinel event" means a type of critical incident that is an unexpected occurrence involving the death or serious physical or psychological injury to a consumer, staff member, or visitor, or risk thereof. Serious injury specifically includes loss of limb or function. The phrase "or risk thereof" includes a variation in approved processes which could carry a significant chance of a serious adverse outcome. These events signal the need for immediate investigation and response. Sentinel events include, but are not limited to, suicide, homicide, assault and other forms of violence, including domestic violence or sexual assault, and adverse drug events resulting in serious injury or death. Sentinel events include

occurrences that take place at the facility and/or during the delivery of services, as well as suicide and unintentional drug overdose deaths that occur at any time while an outpatient consumer is an active consumer and within seventy-two (72) hours of discharge from inpatient and residential settings, including sites certified under Chapter 23 of this Title.

"Service area" means a geographic area established by the Department of Mental Health and Substance Abuse Services for support of mental health [43A O.S. § 3-302(1)].

"Service Provider" means a person who is allowed to provide substance abuse services within the regulation and scope of their certification level or license.

"Site Review Protocol" means an ODMHSAS document developed as a work document in the certification site visit(s) that is based primarily upon the rules (standards/criteria) being reviewed. The Site Review Protocol is used in preparing the Certification Report, which is provided to the facility as well as to the Board for its consideration and action related to certification.

"Staff privileging" means an organized method for facilities and programs to authorize an individual to provide specific care and treatment services to consumers within well-defined limits, based on the evaluation of the individual's license, education, certification, training, experience, competence, judgment, and other credentials.

"Substantial compliance" means the demonstration of compliance by an entity subject to certification to ODMHSAS of a minimum percentage of all applicable critical and necessary standards in accordance with these rules. The determination of whether an individual standard is deemed compliant may be done on a pass/fail basis or as a minimum percentage of required elements.

"Support Services Provider (SSP)" means an individual age eighteen (18) or older with a high school diploma or equivalent.

"TJC" means The Joint Commission formerly referred to as the Joint Commission on Accreditation of Healthcare Organizations or JCAHO.

"Tobacco" means any nicotine delivery product or device that is not approved by the U.S. Food and Drug Administration (FDA) for the purpose of nicotine dependence treatment, including, but not limited to cigarettes, cigars, snuff, chewing tobacco, electronic cigarettes and vaping devices.

"Volunteer" means any person who is not on the program's payroll, but provides services and fulfills a defined role within the program and includes interns and practicum students.

SUBCHAPTER 9. CERTIFICATION AND DESIGNATION OF FACILITY SERVICES

450:1-9-5.6. Quality clinical standards for facilities and programs [AMENDED]

(a) **Staff qualifications.**

(1) All staff who provide clinical services within facilities and programs shall have documented qualifications or training specific to the clinical services they provide.

(2) Each facility or program shall have policies and procedures for documenting and verifying the training, experience, education, and other credentials of service providers prior to their providing treatment services for which they were hired. All staff shall be documented as privileged prior to performing treatment services.

(3) All direct care staff shall be at least eighteen (18) years old.

(4) Each facility or program shall minimally perform a review each calendar year of current licensure, certifications, and current qualifications for privileges to provide specific treatment services.

(b) **Staff development and training.**

(1) All facilities and programs shall have a written staff development and training plan for all administrative, professional and support staff. This plan shall include, at a minimum:

(A) Orientation procedures;

(B) In-service training and education programs;

(C) Availability of professional reference materials;

(D) Mechanisms for ensuring outside continuing educational opportunities for staff members; and

(E) Performance improvement activities and their results.

(2) In-service training shall be conducted each calendar year and shall be required within thirty (30) days of each employee's hire date and each calendar year thereafter for all employees on the following topics:

(A) Fire and safety, including the location and use of all fire extinguishers and first aid supplies and equipment;

(B) Universal precautions and infection control;

(C) Consumer's rights and the constraints of the Mental Health Patient's Bill of Rights;

(D) Confidentiality;

(E) Oklahoma Child Abuse Reporting and Prevention Act, 10 O.S. §§ 7101-7115;

(F) Facility policy and procedures;
(G) Cultural competence (including military culture if active duty or veterans are being served);
(H) Co-occurring disorder competency and treatment principles;
(I) Trauma informed service provision;
(J) Crisis intervention;
(K) Suicide risk assessment, prevention, and response; and
(L) Age and developmentally appropriate trainings, where applicable.

(3) All clinical staff, direct care staff, and/or volunteers providing direct care shall have non-physical intervention training in techniques and philosophies addressing appropriate non-violent interventions for potentially physical interpersonal conflicts, staff attitudes which promote dignity and enhanced self-esteem, keys to effective communication skills, verbal and non-verbal interaction and non-violent intervention within thirty (30) days of being hired with updates each calendar year thereafter. Staff and volunteers shall not participate in an intervention without first completing this training. This standard shall not apply to facilities or programs subject to Chapter 27 of this Title or outpatient programs subject to Chapter 18 of this Title.

(4) The local facility Executive Director shall designate which positions and employees, including temporary employees, will be required to successfully complete physical intervention training. A designated employee or volunteer shall not provide direct care services to consumers until completing this training. This standard shall not apply to facilities or programs subject to Chapter 16 or Chapter 27 of this Title, or outpatient programs subject to Chapter 18 of this Title.

(5) The training curriculum for (3) and (4) of this subsection must be approved by the ODMHSAS commissioner or designee.

(6) Each site providing residential level of care services and/or subject to Chapter 23 of this Title shall have staff during all hours of operation who maintain current certification in basic first aid and Cardiopulmonary Resuscitation (CPR).

(c) **Clinical supervision.**

(1) With the exception of facilities certified under Chapter 16 of this Title, all facilities and programs shall have written policies and procedures, operational methods, and documentation of the provision of clinical supervision for all direct treatment and service staff. For facilities that employ only one service provider, supervision will be in the form of clinical consultation from a qualified service provider in the same field. These policies shall include, but are not limited to:

(A) Credentials required for the clinical supervisor;
(B) Specific frequency for case reviews with treatment and service providers;
(C) Methods and time frames for supervision of individual, group, and educational treatment services; and
(D) Written policies and procedures defining the program's plan for appropriate counselor-to-consumer ratio, and a plan for how exceptions may be handled.

(2) Ongoing clinical supervision shall be provided and shall address:

(A) The appropriateness of treatment selected for the consumer;
(B) Treatment effectiveness as reflected by the consumers meeting their individual goals; and
(C) The provision of feedback that enhances the clinical skills of service providers.

(d) **Clinical record keeping, basic requirements.**

(1) All facilities and programs shall establish and maintain an organized clinical record system for the collection and documentation of information appropriate to the treatment processes; and which insures organized, easily retrievable, usable clinical records stored under confidential conditions and with planned retention and disposition.

(2) Each facility or program shall maintain an individual record for each consumer.

(3) The facility's or program's policies and procedures shall:

(A) Define the content of the consumer record in accordance with all applicable state and federal rules, requirements, and statutes;
(B) Define storage, retention and destruction requirements for consumer records in a manner that prevents unauthorized information disclosures;
(C) Require consumer records not in electronic format be maintained in locked equipment which is kept within a locked room, vehicle, or premise;
(D) Require legible entries in consumer records, signed with first name or initial, last name, and dated by the person making the entry;

(E) Require the consumer's name or unique identifier be typed or written on each page in consumer records not in electronic format;
(F) Require a signed consent for treatment before a consumer is admitted on a voluntary basis; and
(G) Require consent for release of information in accordance with federal and state laws, guidelines, and standards, including OAC 450:15-3-20.1 and OAC 450:15-3-20.2. For disclosure of information related to substance use disorder referral, payment, and follow up, a signed consent is required.

(4) If electronic clinical (medical) records are maintained, there shall be proof of compliance with all applicable state and federal rules and statutes related to electronic medical records, encryption, and other required features.
(5) ODMHSAS operated facilities shall comply with Records Disposition Schedule 82-17 as approved by the Oklahoma Archives and Records Commission.
(6) The facility or program shall assure consumer records are readily accessible to all staff providing services to consumers. Such access shall be limited to the minimum necessary to carry out the staff member's job functions or the purpose for the use of the records.

(e) **Discharge summary.**

(1) A completed discharge summary shall be entered in each consumer's record within fifteen (15) days of the consumer completing, transferring, or discontinuing services. The summary shall be signed and dated by the staff member completing the summary. Consumers who have received no services for one hundred eighty (180) days shall be discharged if it is determined that services are no longer needed or desired.
(2) A discharge summary shall include, but not be limited to, the consumer's progress made in treatment, initial condition and condition of the consumer at discharge, diagnoses, summary of current medications, when applicable, and recommendations for referrals, if deemed necessary. It shall include a discharge plan which lists written recommendations and specific referrals for implementing aftercare services, including medications. Discharge plans shall be developed with the knowledge and cooperation of the consumer, when possible. This standard shall not apply to facilities certified under Chapter 16 of this Title.
(3) The signature of the staff member completing the summary and the date of completion shall be included in the discharge summary.
(4) In the event of death of a consumer, in lieu of a discharge summary, a summary statement including applicable information shall be documented in the record.

(f) **Critical incidents.**

(1) All facilities and programs shall have written policies and procedures requiring documentation and reporting of critical incidents and analysis of the contributors to the incident to ODMHSAS.
(2) The documentation of critical incidents shall contain, at a minimum:
(A) Facility name and signature of the person(s) reporting the incident;
(B) Names of the consumer(s), and/or staff member(s) involved;
(C) Time, date, and physical location of the incident;
(D) Time and date incident was reported and name of person within the facility to whom it was reported;
(E) Description of incident;
(F) Severity of each injury, if applicable. Severity shall be indicated as follows:
(i) No off-site medical care required or first aid care administered on-site;
(ii) Medical care by a physician or nurse or follow-up attention required; or
(iii) Hospitalization or immediate off-site medical attention was required;
(G) Resolution or action taken and date resolution or action was taken; and
(H) Signature of the facility administrator, or designee of the facility administrator. Designees shall be identified in the facility's policy and procedures.
(3) Critical incidents shall be reported to ODMHSAS with specific timeframes, as follows:
(A) Critical incidents requiring medical care by a physician or nurse or follow-up attention and incidents requiring hospitalization or immediate off-site medical attention shall be ~~delivered via fax, or ODMHSAS designated electronic system,~~ reported to ODMHSAS within seventy-two (72) hours of the incident. Critical incidents shall be reported in a form and manner prescribed by ODMHSAS.
(B) Critical incidents involving allegations constituting a sentinel event or consumer abuse shall be reported to ODMHSAS immediately, ~~via telephone or fax, but within not more than~~not to exceed twenty-four (24) hours of the incident. ~~If reported by telephone, the report shall be followed with a written report within twenty-four (24) hours of the incident.~~Critical incidents shall be reported in a form and manner prescribed by ODMHSAS.

450:1-9-13. Designated emergency examination sites [AMENDED]

(a) ODMHSAS shall maintain a list of facilities designated by the Commissioner as appropriate to conduct emergency examinations to determine if emergency detention is warranted. All hospitals licensed by the Oklahoma State Department of Health who have a designated emergency department and who have an LMHP on staff, under contract, or on call, shall automatically be designated as an emergency examination site.

(b) The following types of facilities may be placed on the list of designated emergency examination facilities:

(1) Hospitals licensed by the Oklahoma State Department of Health;

(2) Community Mental Health Centers certified by the Board pursuant to Chapter 17 of Title 450 of the Oklahoma Administrative Code;

(3) Community-based Structured Crisis Centers certified by the Board pursuant to Chapter 23 of Title 450 of the Oklahoma Administrative Code;

(4) Facilities operated by ODMHSAS; or

(5) Hospitals accredited by JCAHO, CARF, the Accreditation Commission for Health Care/Health Facility Accreditation Program (ACHC/HFAP), or the Center for Improvement in Health Care Quality (CIHQ).

(c) A facility may request the Commissioner to designate the facility as an emergency examination facility to be placed on the list. The facility shall make a request in writing to the Provider Certification Division of ODMHSAS and verify it has the ability to conduct emergency examinations as defined in 43A O.S. § 5-206(4) and has one or more licensed mental health professionals as defined in 43A O.S. § 1-103(11) capable of performing the functions set forth in 43A O.S. §§ 5-207 and 5-208.

(d) The facility shall receive a letter from the Commissioner notifying the facility whether its request to be placed on the list of designated emergency examination facilities has been granted.

SUBCHAPTER 13. BEHAVIORAL HEALTH WORKFORCE DEVELOPMENT FUND [NEW]

450:1-13-1. Purpose [NEW]

The purpose of this Subchapter is to set forth criteria and procedures for the disbursement of monies from the Behavioral Health Workforce Development Fund. All monies allocated to the Behavioral Health Workforce Development Fund by the Oklahoma Legislature will be appropriated to and budgeted for use by ODMHSAS for the purpose of repaying student loans for qualified behavioral health practitioners, increasing the number of psychiatric residencies, expanding licensure cohorts to increase the number of clinicians at master's level and above, and developing training, recruitment and supervision capacity. The aim of the fund is to increase the number of behavioral health practitioners providing services in underserved areas of the State by helping to recruit and retain qualified individuals.

450:1-13-3. Applicability [NEW]

This Subchapter is applicable to ODMHSAS and individual practitioners who are eligible for or applicants of student loan repayment and behavioral health graduate cohort programs funded through the Behavioral Health Workforce Development Fund.

450:1-13-5. Student Loan Repayment [NEW]

(a) **Eligibility.** ODMHSAS will provide student loan repayment to behavioral health practitioners in accordance with the rules in this Subchapter and state law. To be eligible for these funds the practitioner must:

(1) Be a Licensed Behavioral Health Professional as defined in this Chapter. Licensure candidates are not eligible until fully licensed;

(2) Be appropriately licensed and in good standing with the applicable state licensing entity;

(3) Be an Oklahoma resident;

(4) Be employed as a practitioner of clinical mental health and/or substance use disorder/addiction services at a behavioral health provider organization with a physical service location in the State of Oklahoma; and

(5) Commit to providing direct clinical care in Oklahoma in a full-time (at least 32 hours per week) capacity for a period of two (2) years, or an equivalent amount of hours over a period of more than two (2) but not more than four (4) years. A minimum of twenty (20) hours per week over the employment period is required to be eligible.

(b) **Eligibility does not guarantee that student loan repayment will be provided**. Funds will be disbursed to eligible practitioners as funds are available through the Behavioral Health Workforce Development Fund at the discretion of ODMHSAS. The following factors may be considered in the selection of which practitioners will receive student loan repayment:

(1) Date of application submission;

(2) Type of clinical services provided (e.g., primarily mental health or substance related; outpatient or inpatient);
(3) Demographics of the service area and/or service recipients;
(4) Eligibility for other loan repayment programs;
(5) Number of prior applicants in the service area who have received repayment through the fund.

(c) **Application.** Applications for student loan repayment from the Behavioral Health Workforce Development Fund shall be submitted to ODMHSAS on a form and in a manner prescribed by the Commissioner or designee. The application must include the following:

(1) Application form completed in full according to its instructions;
(2) Proof of Oklahoma residency in the form of:
(A) An Oklahoma driver's license or identification card;
(B) An Oklahoma voter identification card; or
(C) A utility bill dated within three (3) months prior to the application date, excluding internet and cellular phone bills.
(3) Documentation of current, valid license to practice in the State of Oklahoma by the appropriate licensing entity;
(4) Verification of current employment with a behavioral health organization in Oklahoma, including number of hours worked per week;
(5) Employer information, including name of organization and location(s) where the applicant will be providing services;
(6) Job description and/or written documentation from an authorized representative of the employing organization describing the job duties; and
(7) Signed Commitment Letter.

(d) **Optional items that may be submitted with the application include:**

(1) Reference letters from previous or current employer(s); and
(2) Documentation of additional certifications, credentials, and/or licenses related to behavioral health.

(e) **Disbursement.**

(1) Successful applicants will be eligible to receive up to $30,000 in direct student loan repayment over a maximum of four (4) years of eligible employment.
(2) Full-time practitioners (at least thirty-two [32] hours per week over the employment period) will be eligible for an initial payment of up to $20,000 after the completion of twenty-four (24) months of eligible employment. Subsequently, full-time practitioners may renew for a third year to receive an additional $10,000 in student loan repayment.
(3) For practitioners working less than full-time (twenty [20] to thirty-one [31] hours per week over the employment period) during the first two (2) years, initial student loan repayment will be provided in the amount of up to $15,000 after the completion of twenty-four (24) months of eligible employment. Subsequently, part-time practitioners may renew for a third year and fourth year to receive up to an additional $7,500 in student loan repayment for each additional year.
(4) Payment is dependent upon the practitioner providing all requested information and documentation to substantiate employment and student loan information. Failure of the practitioner to provide requested items within requested timeframes may delay or terminate eligibility for student loan repayment.
(5) Funds will be paid directly by ODMHSAS to the current lender associated with the student loan and shall not exceed the total student loan debt.

450:1-13-7. Tuition Assistance [NEW]

(a) **Eligibility.** ODMHSAS will provide tuition assistance to eligible applicants selected for an approved behavioral health graduate level cohort program with a university partner established by ODMHSAS which will provide an educational path to become a Licensed Behavioral Health Professional as defined in this Chapter. Funds will be disbursed to eligible applicants as funds are available through the Behavioral Health Workforce Development Fund at the discretion of ODMHSAS. To be eligible for these funds the applicant must:

(1) Possess a bachelor's degree with an undergraduate grade point average (GPA) of 3.0 or higher. Some exceptions may apply for GPAs of 2.5 – 2.99;
(2) Be attending or planning to attend a master's level program with a university partner established by ODMHSAS;
(3) Be an Oklahoma resident;
(4) Be employed at a behavioral health provider organization with a physical service location in the State of Oklahoma; and

(5) Commit to continued employment with a behavioral health provider organization with a physical service location in Oklahoma in a full-time (at least thirty-two [32] hours per week) capacity for a period of two (2) years, or an equivalent number of hours over a period of more than two (2) but not more than four (4) years. A minimum of twenty (20) hours per week over the employment period is required to be eligible.

(b) **Eligibility does not guarantee that tuition assistance will be provided**. Funds will be disbursed to accepted applicants as funds are available through the Behavioral Health Workforce Development Fund at the discretion of ODMHSAS. The following factors may be considered in the selection of which applicants will receive tuition assistance:

(1) Date of application submission;

(2) Type of clinical services provided by the employer of the applicant;

(3) Demographics of the service area and/or service recipients of the employer of the applicant; and

(4) Number of prior applicants in the service area who have received tuition assistance through the fund.

(c) **Application.** Applications for tuition assistance from the Behavioral Health Workforce Development Fund for an approved behavioral health graduate cohort program with an established university partner shall be submitted to ODMHSAS on a form and in a manner prescribed by the Commissioner or designee. The application must include the following:

(1) Application form completed in full according to its instructions;

(2) Proof of Oklahoma residency in the form of:

(A) An Oklahoma driver's license or identification card;

(B) An Oklahoma voter identification card; or

(C) A utility bill dated within three (3) months prior to the application date, excluding internet and cellular phone bills.

(3) Verification of current employment with a behavioral health organization in Oklahoma, including number of hours worked per week;

(4) Employer information, including name of organization and location(s) where the applicant is working;

(5) Three reference letters from previous or current employer(s); and

(6) Signed Commitment Letter.

(d) **Optional items that may be submitted with the application include documentation of additional certifications, credentials, and/or licenses related to behavioral health.**

(e) **Disbursement.**

(1) Successful applicants for the graduate cohort program will be eligible to receive tuition assistance in an amount not to exceed $2,500 per semester, paid directly to the university established by ODMHSAS on a semester-by-semester basis. The Behavioral Health Workforce Development Fund shall not pay for the cost of textbooks, supplies, transportation, meals, lodging or any of the expenses or fees incurred in pursuing the education program.

(2) Participants shall maintain a passing grade for each of the required courses. The fund will not pay for the cost to retake a failed course.

(3) Participants shall remain employed to a qualified behavioral health provider and maintain their scheduled hours of a minimum of twenty (20) hours per week.

(4) Payment is dependent upon the participant providing all requested information and documentation to substantiate employment and hours worked. Failure of the participant to provide requested items within requested timeframes may delay or terminate eligibility for tuition assistance.

(5) Funds will be paid directly by ODMHSAS to the established university for the behavioral health graduate cohort program and shall not exceed the tuition amount.

[OAR Docket #24-725; filed 7-2-24]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 17. STANDARDS AND CRITERIA FOR COMMUNITY MENTAL HEALTH CENTERS

[OAR Docket #24-726]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Required Services

Part 5. EMERGENCY SERVICES
450:17-3-41. Emergency services [AMENDED]
Subchapter 5. Optional Services
Part 25. CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS
450:17-5-172. General Staffing [AMENDED]
450:17-5-173. Staffing; Treatment team [AMENDED]
450:17-5-176. Availability and accessibility of services [AMENDED]
450:17-5-179. Primary care screening and monitoring [AMENDED]
450:17-5-180. Initial assessment ~~and initial care plan~~, initial care plan, and comprehensive assessment [AMENDED]
450:17-5-182. Comprehensive care plan, timeframes [AMENDED]
450:17-5-183. Care coordination [AMENDED]
450:17-5-184. Crisis services [AMENDED]
450:17-5-189. Community-based mental health care for members of the Armed Forces and Veterans [AMENDED]

AUTHORITY:
Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-306, 3-306.1 and 3-315

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 25, 2023

COMMENT PERIOD:
November 15, 2023 through December 15, 2023

PUBLIC HEARING:
December 18, 2023

ADOPTION:
January 25, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 29, 2024

LEGISLATIVE APPROVAL:
N/A

LEGISLATIVE DISAPPROVAL:
N/A

APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024

EFFECTIVE:
September 1, 2024

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:
N/A

GUBERNATORIAL APPROVAL:
N/A

REGISTER PUBLICATION:
N/A

DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:
N/A

INCORPORATING RULES:
N/A

AVAILABILITY:
N/A

GIST/ANALYSIS:
Revisions include changes to requirements for Certified Community Behavioral Health Clinics, including required screenings, assessments, and crisis activities, as well as other clean-up revisions.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2024:

SUBCHAPTER 3. REQUIRED SERVICES

PART 5. EMERGENCY SERVICES

450:17-3-41. Emergency services [AMENDED]

(a) CMHCs shall provide, on a twenty-four (24) hour basis, accessible co-occurring disorder capable services for substance use disorder and/or psychiatric emergencies.

(b) This service shall include the following:

(1) 24-hour assessment and evaluation, including emergency examinations;

(2) Availability of 24-hour inpatient/crisis center referral and crisis diversion/intervention;

(A) CMHC staff shall be actively involved in the emergency services and referral process to state-operated psychiatric inpatient units, crisis centers and urgent recovery clinics.

(B) Referral to state-operated psychiatric inpatient units by the CMHC shall occur only after all other community resources, including crisis centers and urgent recovery clinics, are explored with the individual and family if family is available.

(C) Prior notification to and approval from the state-operated psychiatric inpatient unit of all referrals from CMHCs is required.

(3) Availability of assessment and evaluation in external settings unless immediate safety is a concern. This shall include but not be limited to schools, jails, and hospitals;

(4) Referral services, which shall include actively working with local sheriffs and courts regarding the appropriate referral process and appropriate court orders (43A O.S. §§ 5-201 through 5-407);

(5) CMHCs serving multiple counties shall provide or arrange for face-to-face assessment of persons taken into protective custody [43A O.S. § 5-206 et seq.] in each county;

(6) The CMHC's emergency telephone and telehealth response time shall be less than fifteen (15) minutes from initial contact, unless there are extenuating circumstances;

(7) Face-to-face strength based assessment, unless there are extenuating circumstances, addressing both mental health and substance use disorder issues which, if practicable, include a description of the client's strengths in managing mental health and/or substance use issues and disorders during a recent period of stability prior to the crisis;

(8) Intervention and resolution; and

(9) Access to an evaluation. No barriers to access of an evaluation based on active substance use or designated substance levels shall be implemented unless the facility provides written justification approved by ODMHSAS Provider Certification.

(c) Compliance with 450:17-3-41 shall be determined by a review of policy and procedures, and clinical records.

SUBCHAPTER 5. OPTIONAL SERVICES

PART 25. CERTIFIED COMMUNITY BEHAVIORAL HEALTH CLINICS

450:17-5-172. General Staffing [AMENDED]

(a) In order to ensure adequate staffing, the facility must complete ~~an~~a needs assessment and staffing plan, which reflect of the needs of the target consumer population ~~and a staffing plan~~. The needs assessment will include cultural, linguistic, and treatment needs. The needs assessment will include both consumer and family/caregiver input and will be updated regularly, but no less frequently than every three (3) years.

(b) The facility operating the CCBHC will have policies and program descriptions to define how the CCBHC will operate a team dedicated to provide the range of specific services articulated elsewhere in this Subchapter.

(c) The facility shall have a fully staffed management team as appropriate for the size and needs of the clinic as determined by the current needs assessment and staffing plan. The management team will include, at a minimum a CEO or Executive Director and a psychiatrist as Medical Director. The Medical Director need not be a full-time employee. The Medical Director will ensure the medical component of care and the integration of behavioral health and primary care are facilitated. If, after reasonable efforts have been made, a CCBHC is unable to obtain a psychiatrist as a Medical Director, a medically trained behavioral health care professional with prescriptive authority and appropriate education, licensure, and experience in psychopharmacology, and who can prescribe and manage medications independently pursuant to state law, may serve as the Medical Director if special approval from ODMHSAS is obtained. However, in these instances the CCBHC must obtain consultation from a psychiatrist regarding medical and clinical service delivery.
(d) The facility must maintain liability/malpractice insurance adequate for the staffing and scope of services provided.
(e) Compliance with this Section shall be determined by a review of policies, facility needs assessment, organizational chart, clinic liability and malpractice insurance documentation.

450:17-5-173. Staffing; Treatment team [AMENDED]
(a) The treatment team includes the consumer, the family/caregiver of child consumers, the adult consumer's family to the extent the consumer does not object, any other person the consumer chooses, and identified staff as appropriate to the needs of the individual consumer. Each facility shall maintain a core staff comprised of employed and, as needed, contracted staff, which shall, at a minimum, include the following positions:
(1) Licensed Psychiatrist;
(2) Licensed Nurse Care Manager (RN or LPN);
(3) Consulting Primary Care Physician, Advanced Practice Registered Nurse, or Physician Assistant;
(4) At least one (1) Licensed Behavioral Health Professional (LBHP) and may include additional LBHPs or Licensure Candidates;
(5) ~~Certified~~ Behavioral Health Case Manager II or Certified Alcohol and Drug Counselor;
(6) ~~Certified~~ Peer Recovery Support Specialist;
(7) ~~Family Support Provider for child consumers;~~Family Peer Recovery Support Specialist;
(8) Qualified Behavioral Health Aide; and
(9) Wellness Coach.
(b) Optional positions, to be included as necessary based on community needs assessments and the caseload of the CCBHC, may include:
(1) Certified Behavioral Health Case Manager I;
(2) Licensed nutritionist;
(3) Occupational therapist; and/or
(4) Occupational therapist assistant under the supervision of a licensed occupational therapist.
(c) Compliance with this Section shall be determined by a review of personnel files and privileging documents.

450:17-5-176. Availability and accessibility of services [AMENDED]
(a) A CCBHC must conduct outreach activities to engage ~~those consumers who are difficult to find and engage~~underserved individuals and populations, with an emphasis on the special population list also known as the "Most in Need" list that is determined and supplied to the CCBHC by the ODMHSAS. These activities must be services reported through the Medicaid Management Information System (MMIS). The CCBHC must have dedicated staff who do not carry a caseload. The CCBHC must have policies and procedures to describe how outreach and engagement activities will occur to assist consumers and families to access benefits and formal or informal services to address behavioral health conditions and needs.
(b) Facility records will identify which staff members are responsible for specific elements of outreach and engagement.
(c) To the extent possible, the facility should make reasonable efforts to provide transportation or transportation vouchers for consumers to access services provided or arranged for by the facility.
(d) To the extent allowed by state law, facility will make services available via telemedicine in order to ensure consumers have access to all required services.
(e) The facility will ensure that no individuals are denied services, including but not limited to crisis management services, because of an individual's inability to pay and that any fees or payments required by the clinic for such services will be reduced or waived to enable the facility to fulfill this assurance. The facility will have a published sliding fee discount schedule(s) that includes all services offered.

(f) The facility will ensure no individual is denied behavioral healthcare services because of place of residence or homelessness or lack of a permanent address. Facility will have protocols addressing the needs of consumers who do not live within the facility's service area. At a minimum, facility is responsible for providing crisis response, evaluation, and stabilization services regardless of the consumer's place of residence and shall have policies and procedures for addressing the management of the consumer's ongoing treatment needs. In addition, for those consumers who are homeless, the CCBHC must attempt to obtain at least two contact phone numbers for persons of the consumer's choice who know how to reach the consumer in the consumer's record, and/or a location where the consumer is most likely to be found, and/or a location to find a person of the consumer's choice likely to know where the consumer is located.
(g) The facility shall report to the Department any individual who is denied services and the reason for the denial. Reporting shall be completed in a form and manner prescribed by the Department.
~~(g)~~(h) Each CCBHC must have the following within three (3) years of initial CCBHC certification or by July 1, 2024, whichever is later:

(1) A minimum of one outpatient clinic with twenty-four (24) hour service availability, urgent recovery clinic (URC), or crisis unit in each of the following:

(A) Every county within the CCBHC catchment area with a population of 20,000 or more; and

(B) A minimum of one (1) adjacent county (if not within the county) for every county within the catchment area with a population of less than 20,000. A URC or crisis unit in another catchment area may be utilized to satisfy this requirement.

~~(h)~~(i) Compliance with this Section shall be determined by a review of policies, consumer records and facility fee schedule.

450:17-5-179. Primary care screening and monitoring [AMENDED]

(a) The facility is responsible for outpatient clinic primary care screening and monitoring of key health indicators and health risk. Facility shall have policies and procedures to ensure that these services are received in a timely fashion, whether provided directly by the facility or through a DCO.
(b) Required primary care screening and monitoring of key health indicators and health risk provided by the facility shall include but not be limited to the following:

(1) For all consumers, as applicable based on age as specified in the CCBHC Manual:

(A) Adult Body Mass Index (BMI) screening and follow-up for adults or weight assessment and counseling for nutrition and physical activity for children/adolescents (WCC);

(B) Blood pressure;

(C) Screening for clinical depression and follow-up plan;

(D) Tobacco use: Screening and cessation intervention; and

(E) Unhealthy alcohol use.

(2) As applicable:

(A) Adherence to antipsychotic medications for individuals with Schizophrenia;

(B) Adherence to mood stabilizers for individuals with Bipolar I Disorder;

(C) Antidepressant medication management;

(D) Cardiovascular health screening for people with schizophrenia;

(E) Diabetes care for people with serious mental illness;

(F) Diabetes screening for people with schizophrenia or bipolar disorder who are using antipsychotic medications; ~~and~~

(G) Metabolic monitoring for children and adolescents on antipsychotics~~.~~;

(H) HIV and viral hepatitis; and

(I) Other clinically indicated primary care key health indicators, as determined by the CCBHC Medical Director and based on environmental factors, social determinants of health, and common physical health conditions experienced by the CCBHC service population.

(c) The facility will ensure children receive age appropriate screening and preventive interventions including, where appropriate, assessment of learning disabilities, and older adults receive age appropriate screening and preventive interventions.
(d) The Medical Director shall develop organizational protocols to ensure that people receiving services who are at risk for common physical health conditions experienced by CCBHC populations receive appropriate screening across the lifespan. Protocols shall include methods for identifying service recipients with chronic diseases, ensuring service recipients are asked about physical health symptoms, and establishing procedures for the collection and analysis of laboratory samples.
~~(d)~~(e) Compliance with this Section will be determined by a review of facility policies and consumer records.

450:17-5-180. Initial assessment ~~and initial care plan~~, initial care plan, and comprehensive assessment [AMENDED]

(a) The initial assessment and the initial care plan must be completed within ten (10) business days after the first contact. The initial care plan must include, at a minimum, the following:

(1) Preliminary diagnoses;
(2) Source of referral;
(3) Reason for seeking care, as stated by the client or other individuals who are significantly involved;
(4) Identification of the client's immediate clinical care needs related to the diagnosis for mental and substance use disorders;
(5) A list of current prescriptions and over-the-counter medications, as well as other substances the client may be taking;
(6) The use of any alcohol and/or other drugs the client may be taking and indications for any current medications;
(7) A summary of previous mental health and substance use disorder treatments, with a focus on which treatments helped and were not helpful;
~~(6)~~(8) An assessment of whether the client is a risk to self or to others, including suicide risk factors;
(9) An assessment of the need for medical care (with referral and follow-up as required);
~~(7)~~(10) An assessment of whether the client has other concerns for their safety, such as intimate partner violence; ~~assessment of need for medical care (with referral and follow-up as required);~~
~~(8)~~(11) A determination of whether the person presently is or ever has been a member of the U.S. Armed Services; ~~and~~
(12) For children and youth, a determination of whether the person has or has had involvement in government systems, such as child welfare and juvenile justice; and
~~(9)~~(13) At least one (1) immediate treatment goal.

(b) A comprehensive assessment is required for all people receiving CCBHC services. Clinicians should use their clinical judgment with respect to the depth of questioning within the assessment so that the assessment actively engages the person receiving services around their presenting concern(s). The assessment should gather the amount of information that is commensurate with the complexity of their specific needs, and prioritize preferences of people receiving services with respect to the depth of assessment and their treatment goals.

~~(b)~~(c) A Licensed Behavioral Health Professional (LBHP) or Licensure Candidate, acting within his/her scope of practice requirements, must complete the initial assessment, ~~and~~ initial care plan, and comprehensive assessment in accordance with OAC 450:17-3-21 for consumers who have not been assessed by the facility within the past six (6) months.

450:17-5-182. Comprehensive care plan, timeframes [AMENDED]

(a) The comprehensive care plan must be documented and completed within sixty (60) calendar days after the first contact.
(b) The comprehensive care plan must be updated as needed but no less than every six (6) months thereafter. The update shall include an addendum to the plan showing progress toward goals specified in the plan, goals and objectives that have been achieved, and any new goals or objectives.
~~(c) Additionally, a review of the comprehensive care plan shall be completed every three (3) months. A review shall consist of a review of the consumer's needs and progress as compared to the content of the comprehensive care plan to determine if an update to the comprehensive care plan is needed more frequently than required in (b) above.~~
~~(d)~~(c) Compliance with this Section will be determined by on-site review of clinical records and supported documentation. The ODMHSAS or its contractor may utilize site observation, staff surveys and/or interviews to assist Provider Certification with determining compliance.

450:17-5-183. Care coordination [AMENDED]

(a) Based on a person and family-centered care plan and as appropriate, the facility will coordinate care for the consumer across the spectrum of health services, including access to physical health (both acute and chronic) and behavioral health care, as well as social services, housing, educational systems, and employment opportunities as necessary to facilitate wellness and recovery of the whole person. This care coordination shall include not only referral but follow up after referral to ensure that services were obtained, to gather the outcome of those services, and to identify next steps needed.
(b) The facility must have procedures and agreements in place to facilitate referral for services needed beyond the scope of the facility. At a minimum, the facility will have agreements establishing care coordination expectations with Federally Qualified Health Centers (FQHCs) and, as applicable, Rural Health Centers (RHCs) to provide healthcare services for consumers who are not already served by a primary healthcare provider.

(c) The facility must have procedures and agreements in place establishing care coordination expectations with community or regional services, supports and providers including but not limited to:

(1) Schools;

(2) OKDHS child welfare;

(3) Juvenile and criminal justice agencies;

(4) Department of Veterans Affairs' medical center, independent clinic, drop-in center, or other facility of the Department; ~~and~~

(5) Indian Health Service regional treatment centers.; and

(6) State licensed and nationally accredited child placing agencies for therapeutic foster care services.

(d) The facility will develop contracts, ~~or~~ memoranda of ~~understandings~~understanding (MOUs), or care coordination agreements with regional hospital(s), Emergency Departments, Psychiatric Residential Treatment Facilities (PRTF), ambulatory and medical withdrawal management facilities or other system(s) to ensure a formalized structure for transitional care planning, to include communication of inpatient admissions and discharges. If, after reasonable effort, the CCBHC is unable to attain contracts, memoranda of understanding (MOUs), or care coordination agreements, the CCBHC will establish written protocols to coordinate care.

(1) Transitional care will be provided by the facility for consumers who have been hospitalized or placed in other non-community settings, such as psychiatric residential treatment facilities. The CCBHC will provide care coordination while the consumer is hospitalized as soon as it becomes known. A team member will go to the hospital setting to engage the consumer in person and/or will connect through telehealth as a face to face meeting. Reasonable attempts to fulfill this important contact shall be documented. In addition, the facility will make and document reasonable attempts to contact all consumers who are discharged from these settings within 24 hours of discharge.

(2) The facility will collaborate with all parties involved including the discharging/admitting facility, primary care physician, and community providers to ensure a smooth discharge and transition into the community and prevent subsequent re-admission(s).

(3) Transitional care is not limited to institutional transitions, but applies to all transitions that will occur throughout the development of the enrollee and includes transition from and to school-based services and pediatric services to adult services.

(4) The facility will document transitional care provided in the clinical records.

(e) Care Coordination activities shall include use of population health management tools, such as dashboards, patient registries, and team staffings.

(f) Care coordination activities will be carried out in keeping with the consumer's preferences and needs for care, to the extent possible and in accordance with the consumer's expressed preferences, with the consumer's family/caregiver and other supports identified by the consumer. ~~The facility will work with the consumer in developing a crisis plan with each consumer, such as a Psychiatric Advanced Directive or Wellness Recovery Action Plan.~~

(g) The CCBHC shall develop a crisis plan with each person receiving services. At minimum, people receiving services should be counseled about the use of the National Suicide & Crisis Lifeline, 988, local hotlines, mobile crisis, and stabilization services should a crisis arise when providers are not in their office. Crisis plans may support the development of a Psychiatric Advanced Directive, if desired by the consumer. Psychiatric Advance Directives, if developed, must be entered in the electronic health record of the person receiving services so that the information is available to providers in emergency care settings where those electronic health records are accessible.

~~(g)~~(h) Referral documents and releases of information shall comply with applicable privacy and consumer consent requirements.

~~(h)~~(i) Compliance with this Section will be determined by on-site observation, review of organizational documents, contracts, MOUs, and clinical records.

450:17-5-184. Crisis services [AMENDED]

(a) The CCBHC ~~will~~shall make available, either directly or through a qualified DCO, the following co-occurring capable crisis services:

(1) Mobile crisis teams that are available for community response twenty-four (24) hours a day, seven (7) days a week, with response times of no more than one (1) hour in urban areas and two (2) hours in rural areas (as designated by the most recent data from the U.S. Census Bureau). Response time is the time from referral to the mobile crisis team to on-site, community-based response;

(2) Emergency crisis intervention services available in-person at the facility twenty-four (24) hours a day, seven (7) days a week; and

(3) Specialized crisis stabilization services, such as a PACT team or dedicated outreach staff/team, that are accessible to all consumers in the catchment area with serious mental illness/serious emotional disturbance that meet criteria as determined by the CCBHC or as designated by ODMHSAS.

(b) Crisis services must include suicide crisis ~~response and~~prevention and intervention services capable of addressing crises related to substance use disorder and intoxication, including ambulatory and medical withdrawal management and drug and alcohol related overdose support following a non-fatal overdose after the individual is medically stable. Overdose prevention activities must include ensuring access to naloxone for overdose reversal to individuals who are at risk of opioid overdose, and as appropriate, to their family members.

(c) The CCBHC ~~will~~must have an established protocol specifying the role of law enforcement during the provision of crisis services.

(d) The CCBHC must have established protocols to track referrals made from 988 and other external crisis intervention call centers to the CCBHC to ensure the timely delivery of mobile crisis team response, crisis stabilization, and post crisis follow-up care.

~~(d)~~(e) Compliance with this Section shall be determined by facility policies and clinical records. The ODMHSAS may also utilize surveys and/or interviews with law enforcement agencies, consumers, families and community partners to determine if these requirements are met.

450:17-5-189. Community-based mental health care for members of the Armed Forces and Veterans [AMENDED]

(a) The facility is responsible for screening all individuals inquiring about services for current or past service in the US Armed Forces.

(b) The facility is responsible for intensive, community-based behavioral health care for certain members of the US Armed Forces and veterans, particularly those Armed Forces members located 50 miles or more from a Military Treatment Facility (MTF) and veterans living 40 miles or more from a Veterans Affairs (VA) medical facility.

(c) All members of the Armed Forces and veterans will be afforded the complete array of services and supports available through the CCBHC, regardless of pay source or diagnosis. Need will be determined through a thorough assessment that includes any necessary communications with and records from any part of the military or veterans systems.

(d) The CCBHC will maintain Memoranda of Agreement and letters of collaboration necessary to easily receive referrals from the military or a VA medical facility, and to obtain all needed information from them, for successful treatment of all persons currently serving in the military or veterans. If, after reasonable effort, Memoranda of Understanding or letters of collaboration cannot be obtained, the CCBHC must develop a protocol to coordinate care.

(e) Compliance with this Section shall be determined by a review of facility policies and clinical records. In addition, the ODMHSAS may conduct surveys and/or interviews, or utilize a contracted agent to conduct them.

[OAR Docket #24-726; filed 7-2-24]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 23. STANDARDS AND CRITERIA FOR COMMUNITY-BASED STRUCTURED CRISIS CENTERS

[OAR Docket #24-727]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. CBSCC Services
Part 2. Urgent recovery clinic services
450:23-3-23. URC Crisis intervention services [AMENDED]
AUTHORITY:
Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-110, 3-306, 3-306.1, 3-314.1, 3-315, 3-317, 3-318, 3-319 and 3-415; 74 O.S. § 85.9G
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 25, 2023
COMMENT PERIOD:
November 15, 2023 through December 15, 2023
PUBLIC HEARING:
December 18, 2023

ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 29, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
September 1, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The proposed rule revisions amend requirements regarding nursing staff.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2024:

SUBCHAPTER 3. CBSCC SERVICES

PART 2. URGENT RECOVERY CLINIC SERVICES

450:23-3-23. URC Crisis intervention services [AMENDED]
(a) URCs shall provide evaluation, crisis stabilization, and social services intervention and must be available seven (7) days per week for consumers experiencing substance abuse related crisis; consumers in need of assistance for emotional or mental distress; or those with co-occurring disorders.
(b) Licensed behavioral health professionals and other support staff shall be adequate in number to provide care needed by consumers twenty-four (24) hours a day seven (7) days per week.
(c) A minimum of one (1) Licensed Practical Nurse or Registered Nurse shall be available, either in-person or via telehealth, at the URC ~~in-person~~ twenty-four (24) hours a day, seven (7) days per week. Regardless of the manner in which nursing staff are available, the URC shall ensure sufficient availability of nursing staff at all times and immediate access to nursing services for consumers whenever needed, in accordance with OAC 450:23-3-22.

(d) The URC shall provide or otherwise ensure the capacity for a practitioner with prescriptive authority and adequate staff with the authority to administer medications at all times for consumers in need of emergency medication services.
(e) Crisis intervention services shall be provided by a co-occurring disorder capable team of social services, clinical, administrative, and other staff adequate to meet the clinical needs of the individuals served and make appropriate clinical decisions to:

(1) Determine an appropriate course of action;
(2) Stabilize the situation as quickly as possible; and
(3) Guide access to inpatient services or less restrictive alternatives, as necessary.

(f) Compliance with this Section shall be determined by a review of the following: personnel files and clinical privileges records; clinical records; PICIS information; policy and procedures; critical incident reports; staffing; census; and by on-site observation.

[OAR Docket #24-727; filed 7-2-24]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 30. STANDARDS AND CRITERIA FOR STATE-OPERATED INPATIENT SERVICES

[OAR Docket #24-728]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Role of State-Operated Inpatient Psychiatric Units
450:30-9-1.1. Definitions [NEW]
450:30-9-3. Admission criteria for state-operated inpatient psychiatric units [AMENDED]
450:30-9-3.1. Voluntary formal and informal admissions to a state-operated inpatient psychiatric unit [AMENDED]
450:30-9-6. Criteria for exclusion from state-operated inpatient psychiatric units admission [AMENDED]
450:30-9-8. State-operated psychiatric inpatient unit treatment functions [AMENDED]
AUTHORITY:
Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-110, 3-306, 3-306.1, 3-314.1, 3-315, 3-317, 3-318, 3-319 and 3-415; 74 O.S. § 85.9G
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 25, 2023
COMMENT PERIOD:
November 15, 2023 through December 15, 2023
PUBLIC HEARING:
December 18, 2023
ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 29, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
September 1, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:

N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The proposed rule revisions add definitions, update admission and exclusion criteria, and amend involuntary admission review procedures. Other clean-up changes and clarifications are also made.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2024:

SUBCHAPTER 9. ROLE OF STATE-OPERATED INPATIENT PSYCHIATRIC UNITS

450:30-9-1.1. Definitions [NEW]

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

"Discharge evaluation" means documentation in the clinical record assessing the consumer's progress during treatment, with goals reached, continuing needs, and other pertinent information to determine readiness for discharge.

"Licensed mental health professional" or **"LMHP"** means a practitioner who meets qualifications as defined in Title 43A §1-103(11).

"Maximum benefit" means the amount of treatment progress at which it can be reasonably determined that continued treatment can no longer accommodate or assist in the reduction of psychiatric symptoms in a level of care less restrictive than inpatient services.

"Medically unstable" means a state in which an immediate, life-threatening medical disorder or illness is present that requires emergency care, or severe medical illnesses or disorders are present for which the state-operated psychiatric inpatient unit does not have the ability to treat.

"Psychiatrist" means a licensed physician who specializes in the assessment and treatment of individuals having psychiatric disorders and who is fully licensed to practice medicine in the state in which he or she practices and is certified in psychiatry by the American Board of Psychiatry and Neurology.

450:30-9-3. Admission criteria for state-operated inpatient psychiatric units [AMENDED]

Individuals appropriate for involuntary admission to a state-operated inpatient psychiatric unit are persons ~~age~~ eighteen (18) years of age or older who have received the maximum benefit of the ~~community based~~community-based treatment available ~~("Maximum benefit" is defined as the extent available resources can no longer accommodate or assist in the reduction of psychiatric symptoms in a level of care less restrictive than inpatient services.);~~ and who:

(1) Are determined to have any of the following psychiatric diagnoses based on nomenclature established in the most current edition of the Diagnostic and Statistical Manual, published by the American Psychiatric Association:

(A) Schizophrenia;
(B) Schizoaffective Disorder;
(C) Other Psychotic Disorders;
(D) Bipolar Disorder;
(E) Depressive Disorders;

(F) Other Mood Disorders;
(G) Anxiety Disorders;
(H) Dissociative Disorders;
(I) Adjustment Disorders; ~~or,~~
(J) Substance Related Psychiatric Disorders; ~~and~~or
(K) Personality Disorders; and

(2) Demonstrate they are a risk of harm to self or others as defined in 43A O.S. § 1-103.

450:30-9-3.1. Voluntary formal and informal admissions to a state-operated inpatient psychiatric unit [AMENDED]

The executive director of the state-operated inpatient unit may receive and retain as a consumer, when there are available accommodations, any person eighteen (18) years of age or ~~over~~older, who voluntarily makes a written application for inpatient treatment.

(1) Any person presenting to a state-operated inpatient psychiatric unit for voluntary admission shall be evaluated by a licensed mental health professional, as defined by 43A O.S. §1-103 (11), who is employed by the state-operated inpatient psychiatric unit to determine that the requested admission is appropriate in accordance with the facility's admission criteria. If the licensed mental health professional determines that admission is necessary and an appropriate referral by a community mental health center has not been made, the licensed mental health professional will, when feasible, seek consent from the person making application for admission to contact the local community mental health center to discuss the admission of the consumer and review options for consideration in lieu of admission to the facility.

(2) A person being admitted to the state-operated inpatient psychiatric unit on a voluntary status must be able to grant consent for the admission. The licensed mental health professional shall ensure that the person signing the request for voluntary admission is competent to grant consent. If the person is unable or not competent to give consent, then the individual may be admitted through the civil involuntary commitment process.

~~(3) The written application for voluntary admission shall include:~~

~~(A) the name of facility to which the request is made;~~
~~(B) the current date and time;~~
~~(C) the name and address of the person making the request;~~
~~(D) the signatures of the person making the request;~~
~~(E) the licensed mental health professional conducting the evaluation; and~~
~~(F) the signature of a witness or notary.~~

~~(4)~~(3) An individual presenting for voluntary admission with pending criminal charges against him or her shall not be admitted if he or she is confined in a jail or adult lock-up facility.

~~(5)~~(4) An individual ~~voluntarily~~formally admitted on a voluntary basis to the state-operated inpatient psychiatric unit shall not be detained for a period exceeding ~~seventy-two (72)~~one hundred twenty (120) hours, excluding weekends and holidays, from receipt of notice of the consumer's desire to leave such inpatient treatment facility.

(5) An individual informally admitted on a voluntary basis (without a written application) may leave the facility on any day between the hours of 9:00 a.m. and 5:00 p.m. and at such other times as the executive director of the facility may determine.

(6) The state-operated inpatient psychiatric unit shall refer, with appropriate signed consent by the individual, persons who do not meet the criteria for admission and are refused admission to an appropriate agency or service. Appropriate documentation of the referral and reason for the non-admission shall be made.

450:30-9-6. Criteria for exclusion from state-operated inpatient psychiatric units admission [AMENDED]

Individuals inappropriate for admission to state-operated psychiatric inpatient units are considered to be the following:

(1) Individuals who have a ~~problem with substance abuse~~substance use disorder, except those in acute withdrawal and for whom no local inpatient services for such treatment are immediately available.

(2) Individuals with a post-traumatic head injury or other organically based disorders with behavioral manifestations not attributable to a specific mental illness as listed in 450:30-9-3(1), and do not meet the admission criteria stated in 450:30-9-3(2).

(3) Individuals who ~~are mentally retarded or developmentally disabled with~~have intellectual or developmental disabilities accompanied by behavioral manifestations not attributable to a specific mental illness as listed in 450:30-9-3-(1) and do not meet the admission criteria stated in 450:30-9-3(2).

(4) Individuals who are homicidal or aggressive, and do not meet the admission criteria stated in 450:30-9-3.

(5) Individuals who are medically unstable. ~~"Medically unstable" is defined as an immediate life threatening medical disorder or illness that requires emergency care, and severe medical illnesses or disorders for which the state-operated psychiatric inpatient unit does not have the ability to treat.~~
~~(6) Individuals with personality disorders as defined in the current Diagnostic and Statistical Manual published by the American Psychiatric Association and who do not meet the admission criteria stated in 450:30-9-3.~~

450:30-9-8. State-operated psychiatric inpatient unit treatment functions [AMENDED]

(a) ~~The state-operated psychiatric inpatient unit admission function is as follows~~Admissions procedures within a state-operated psychiatric inpatient unit shall include the following:
(1) Comprehensive evaluation of each consumer prior to admission; and
(2) Crisis intervention and stabilization services, regardless of legal status but in consideration of relevant legal restrictions on providing treatment, including, but not limited to, restrictions regarding medications to individuals admitted ~~on~~with emergency detention status.

(b) ~~The state-operated psychiatric inpatient unit acute care treatment function is as follows~~Acute care within a state-operated psychiatric inpatient unit shall include the following:
(1) Treatment services to provide ~~quick~~rapid reduction and stabilization of psychiatric or acute withdrawal symptoms ~~with ongoing treatment provided in the community~~; and
(2) Discharge planning which shall begin at time of admission. and establish ongoing treatment to be provided in the community.

(c) ~~The state-operated psychiatric inpatient unit continued treatment function is as follows~~Continued treatment within a state-operated psychiatric inpatient unit shall include the following:
(1) Continued treatment planning ~~which shall begin~~ with the consumer and, pursuant to releases signed by the consumer, the family and the local community mental health center or alcohol or drug program. ~~as soon as~~Treatment planning shall begin when the consumer is admitted to the state-operated psychiatric inpatient unit.
(2) ~~Planning~~Discharge planning, pursuant to appropriately signed releases by the consumer, which shall include a written discharge plan to address the basic needs of the consumer, including, but not limited to, housing, income maintenance and social support, as well as specific provisions for ongoing ~~community based~~community-based mental health or substance abuse treatment needs and follow-up care services recommended by the treatment team. When treatment for co-occurring substance abuse and mental health disorders is indicated, discharge planning shall include arrangements to continue treatment for the co-occurring disorders.
(3) Regular communication ~~including~~and meetings with all community mental health centers and alcohol or drug programs within the state-operated psychiatric inpatient ~~unit~~unit's service area ~~pursuant to appropriately signed releases by the consumer~~ to support the continuation of care on behalf of the consumer in post-inpatient settings, pursuant to appropriately signed releases by the consumer.

(d) Any person involuntarily committed for inpatient treatment to a state-operated psychiatric inpatient unit shall receive a review of his or her involuntary status ~~at least once every three (3) months. The executive director of the state-operated facility with the psychiatric inpatient unit shall take appropriate action based upon this review.~~at regular intervals, in accordance with the following:
(1) The facility shall establish a Utilization Review Committee to oversee the utilization of services. The facility must establish and use criteria to determine the medical necessity of extended stays and the medical necessity of professional services.
(2) The facility shall utilize a psychiatrist not employed by the facility to complete external reviews.
(3) Within the first sixty (60) days of the treatment episode, individuals shall receive a review of their involuntary status by the Utilization Review Committee.
(4) Within the first ninety (90) days of the treatment episode, individuals shall receive an external review of their involuntary status.
(5) Individuals shall receive reviews of their involuntary status within sixty (60) and ninety (90) day intervals as indicated in (3) and (4) above for each subsequent sixty (60) and ninety (90) day treatment period.
~~(1)~~(6) If continued care in the involuntary commitment status is indicated, the treatment team shall determine reasons the individual does not meet criteria for discharge and summarize these in a written discharge evaluation. The team's report shall indicate the exploration of alternatives for continuing care in a less restrictive setting and reasons these alternatives are not clinically indicated.
~~(2) A second, independent evaluation shall be made by the state-operated psychiatric unit clinical director. In cases where the clinical director is also the treating physician, a non-treating physician shall conduct and document the independent evaluation.~~
~~(3)~~(7) All evaluations for purposes of such reviews shall be documented in the ~~medical~~clinical record.

~~(4) Summaries and recommendations of the team and the independent evaluation shall be forwarded to the executive director who shall document, in the medical record, actions authorized by him or her based on the review. Such actions may include but not be limited to discharge from the state-operated psychiatric inpatient unit, motion to modify commitment orders, or development of revised treatment plans for services offered for the consumer in the state-operated psychiatric inpatient unit.~~
~~(5)~~(8) Copies of all evaluations, including recommendations, completed pursuant to this subsection shall be provided to the ODMHSAS Office of Consumer Advocacy.

[OAR Docket #24-728; filed 7-2-24]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 50. STANDARDS AND CRITERIA FOR CERTIFIED BEHAVIORAL HEALTH CASE MANAGERS

[OAR Docket #24-729]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
450:50-1-2. Definitions [AMENDED]
Subchapter 3. Behavioral Health Case Manager Certification Application
450:50-3-1. Qualifications for certification [AMENDED]
450:50-3-2. Applications for certification [AMENDED]
450:50-3-3. Duration of certification [AMENDED]
450:50-3-5. Fitness of applicants [AMENDED]
450:50-3-7. Scope of Behavioral Health Case Manager Certifications [AMENDED]
Subchapter 5. Behavioral Health Case Manager Certification Training and Web-Based Competency Exams
450:50-5-1. Training requirements [AMENDED]
450:50-5-4. Continuing education requirements [AMENDED]
450:50-5-5. Web-based competency exams [AMENDED]
Subchapter 7. Rules of Professional Conduct
450:50-7-1. Responsibility and scope of practice [AMENDED]
450:50-7-2. Consumer welfare [AMENDED]
450:50-7-4. Professional standards [AMENDED]
450:50-7-5. Failure to comply [AMENDED]
Subchapter 9. Enforcement
450:50-9-1. Enforcement [AMENDED]
AUTHORITY:
Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-306 and 3-318
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 25, 2023
COMMENT PERIOD:
November 15, 2023 through December 15, 2023
PUBLIC HEARING:
December 18, 2023
ADOPTION:
January 25, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 29, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
September 1, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The proposed rule revisions amend qualifications and application requirements for Certified Behavioral Health Case Managers. Revisions also include changes regarding continuing education requirements and other clean-up changes.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

450:50-1-2. Definitions [AMENDED]

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

"Behavioral Health Case Manager I" or **"CM I"** means any person who is certified by the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS) to offer behavioral health case management services in accordance with this Chapter.

"Behavioral Health Case Manager II" or **"CM II"** means any person who is certified by ODMHSAS to offer behavioral health case management services and psychosocial rehabilitation (PSR) services in accordance with this Chapter.

"Behavioral health related field" means a field of study that is listed on the Department's Approved Degree List or includes a minimum of thirty-six (36) hours of behavioral health related coursework, as determined by the Department.

"Board" means the State Board of Mental Health and Substance Abuse Services.

"Case management services" means planned referral, linkage, monitoring and support, and advocacy provided in partnership with a consumer to support the consumer in self-sufficiency and community tenure. Services take place in the individual's home, in the community, or in a facility, in accordance with the service plan developed with and approved by the consumer and qualified staff.

~~**"Certified Behavioral Health Case Manager I (CM I)"** means any person who is certified by the Department of Mental Health and Substance Abuse Services (ODMHSAS) to offer behavioral health case management services as an employee of a mental health facility or drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services.~~

~~**"Certified Behavioral Health Case Manager II (CM II)"** means any person who is certified by ODMHSAS to offer behavioral health case management services and psychosocial rehabilitation (PSR) services as an employee of a mental health facility or drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services.~~

"Commissioner" means the Commissioner of Mental Health and Substance Abuse Services.

"Consumer" means an individual, adult, adolescent, or child, who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Department" or **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Documented experience" means volunteer or work experience that can be verified in writing by either a current or past supervisor or human resources department.

"Exam approval letter" means an official letter issued by ODMHSAS that authorizes applicants to take the relevant exam once the necessary training has been completed by the applicant.

"Experience" means twenty (20) or more hours work or volunteer experience per week, over the course of time indicated, with persons living with mental illness and/or substance use disorder.

"Licensed mental health professional" or **"LMHP"**means a practitioner who meets qualifications as defined in Title 43A §1-103 (11).

"Psychosocial rehabilitation" or **"PSR"** means ~~curriculum based~~curriculum-based education and skills training performed to improve an individual's ability to function in the community. PSR provides an array of services that focus on long term recovery and maximization of self-sufficiency, role functioning, and independence, as distinguished from the symptom stabilization function of acute care.

"Web-Based Competency Exam"~~as prescribed by the Department is a competency exam certain individuals must pass to become certified as a Behavioral Health Case Manager~~means a test administered by ODMHSAS that applicants must pass in order to obtain certification as a Behavioral Health Case Manager.

SUBCHAPTER 3. BEHAVIORAL HEALTH CASE MANAGER CERTIFICATION APPLICATION

450:50-3-1. Qualifications for certification [AMENDED]

(a) Each applicant for certification as a behavioral health case manager shall:

(1) Be employed within six (6) months from the date the application was submitted at: ~~a mental health facility, or a drug or alcohol treatment facility that is operated by the Department or contracts with the State to provide behavioral health services, employed by a tribe or tribal facility that provides behavioral health services or employed by an Oklahoma Department of Veterans Affairs or a United States Department of Veterans Affairs facility;~~

(A) The State of Oklahoma;

(B) A behavioral health services provider contracting with the state to provide behavioral health services;

(C) A tribe or tribal facility that provides behavioral health services; or

(D) An Oklahoma Department of Veterans Affairs or United States Department of Veterans Affairs facility.

(2) Possess good moral turpitude;

(3) Be at least 21 years of age; and

(4) Otherwise comply with rules promulgated by the Board implementing 43A O. S. § 3-318.

(b) In addition to the qualifications specified by subsection (a), an applicant for a certification as a ~~Certified~~ Behavioral Health Case Manager must meet the requirements in either (1) or (2) below:

(1) Applicants for ~~Certified~~ Behavioral Case Manager ~~II (CM II)~~I (CM I) must:

~~(A) A Bachelor's or Master's degree in Education or a behavioral health related field earned from a regionally accredited college or university recognized by the United States Department of Education (USDE); or~~

~~(B) A current license as a registered nurse in the State of Oklahoma with experience in behavioral health care; or~~

~~(C) A Bachelor's or Master's degree in any field earned from a regionally accredited college or university recognized by the USDE accompanied by a current certification for Certified Psychiatric Rehabilitation Practitioner or Certified Child and Family Resiliency Practitioner from the United States Psychiatric Rehabilitation Association (USPRA); or~~

~~(D) A Bachelor's or Master's degree in any field that shows proof of active progression toward obtaining a clinical licensure at the master's or doctoral degree level. The degree must be granted from a regionally accredited college or university recognized by the USDE.~~
(A) Possess a High School Diploma, General Equivalency Diploma (GED), or High School Equivalency (HSE) Credential; and
(B) Have a minimum of six (6) months of direct, documented experience working with persons with mental illness and/or substance use disorder.

(2) Applicants for ~~Certified~~ Behavioral Health Case Manager ~~I (CM I)~~II (CM II) must meet the requirements in (A), ~~or~~ (B), (C), (D) or (E) below:
~~(A) 60 college credit hours; or~~
~~(B) a high school diploma, or equivalent, from a regionally accredited institution recognized by the United States Department of Education with a total of 36 months of direct, documented experience working with persons who live with mental illness and/or substance abuse issues.~~
(A) Have a minimum of thirty-six (36) months of direct, documented experience working with persons with mental illness and/or substance use disorder and possess a High School Diploma, General Equivalency Diploma (GED), or High School Equivalency (HSE) Credential; or
(B) Have completed sixty (60) college credit hours and have a minimum of twelve (12) months of direct, documented experience working with persons with mental illness and/or substance use disorder; or
(C) Have a Bachelor's or Master's degree in any field earned from a regionally accredited college or university recognized by the United States Department of Education (USDE) and have a minimum of six (6) months of direct, documented experience working with persons with mental illness and/or substance use disorder; or
(D) Have a Bachelor's or Master's degree in a behavioral health related field earned from a regionally accredited college or university recognized by the United States Department of Education (USDE); or
(E) Have a current license as a registered nurse in the State of Oklahoma with documented experience in behavioral health care.

450:50-3-2. Applications for certification [AMENDED]

(a) Applications for certification as a ~~Certified~~ Behavioral Health Case Manager shall be submitted electronically to the Department on a form and in a manner prescribed by ~~the Commissioner or designee~~ODMHSAS.
~~(b) Depending on the type of CM certification that the applicant is applying for, the application shall include the following items:~~
~~(1) CM II must include:~~
~~(A) Application form completed in full according to its instructions;~~
~~(B) Official college or university transcript(s) or an electronic copy submitted to the Department by the college or university. An unofficial transcript may be accepted if the document can be substantiated by the Department;~~
~~(C) Oklahoma State Bureau of Investigation (OSBI) name-based criminal history report. The report must be an official OSBI. If there is an incident of stolen identity, a Criminal History Record Theft number and letter must be submitted with the application;~~
~~(D) Documentation of current licensure as a registered nurse in the State of Oklahoma, if applicable;~~
~~(E) A current certificate from the United States Psychiatric Rehabilitation Association (USPRA) as a Certified Psychiatric Rehabilitation Practitioner (CPRP) or Certified Child and Family Resiliency Practitioner (CFRP), if applicable; and~~
~~(F) Fees.~~
~~(2) CM I must include (A), (B), (E) and either (C) or (D):~~
~~(A) Application form completed in full according to its instructions.~~
~~(B) Oklahoma State Bureau of Investigation criminal history report.~~
~~(C) Official College or university transcript(s) or an electronic copy submitted to the Department by the college or university. An unofficial transcript may be accepted if the document can be substantiated by the Department.~~
~~(D) Official high school transcript(s) or an electronic copy submitted to the Department by the high school and verification of work experience or volunteer experience. An unofficial transcript may be accepted if the document can be substantiated by the Department.~~

~~(i) Verification of work and/or volunteer experience shall be submitted using the agency's letterhead and must be completed by the supervisor or the Human Resources Department where the work or volunteer experience was obtained.~~
~~(ii) Verification form(s) must be sent to the Department directly from the employer or volunteer agency.~~
~~(iii) Volunteer work must be time spent directly with persons who have a mental illness, co-occurring or substance use disorder.~~

~~(E) Fees.~~

(b) Applications for certification as a CM I must include:

(1) Application form completed in full according to its instructions;

(2) Official high school transcript(s), GED, or HSE documentation, as applicable. An unofficial or electronic copy may be accepted if the document can be substantiated by the Department;

(3) Verification of work experience or volunteer experience in accordance with the following:

(A) Verification of work and/or volunteer experience must be submitted using the organization's letterhead and must be completed by the supervisor or the Human Resources Department where the work or volunteer experience was obtained.

(B) Verification form(s) must be sent to the Department directly from the employer or volunteer organization.

(C) Volunteer work must be time spent directly with persons who have a mental illness and/or substance use disorder.

(4) Oklahoma State Bureau of Investigation (OSBI) name-based criminal history report. The report must be an official OSBI document. If there is an incident of stolen identity, a Criminal History Record Theft number and letter must be submitted with the application; and

(5) Application fee.

(c) Applications for certification as a CM II must include:

(1) Application form completed in full according to its instructions;

(2) One of the following, as applicable:

(A) Official college or university transcript(s). An unofficial or electronic copy may be accepted if the document can be substantiated by the Department; or

(B) Official high school transcript(s), GED, or HSE documentation. An unofficial or electronic copy may be accepted if the document can be substantiated by the Department; or

(C) Documentation of current licensure as a registered nurse in the State of Oklahoma.

(3) Verification of work experience or volunteer experience, if applicable, in accordance with the following:

(A) Verification of work and/or volunteer experience must be submitted using the organization's letterhead and must be completed by the supervisor or the Human Resources Department where the work or volunteer experience was obtained.

(B) Verification form(s) must be sent to the Department directly from the employer or volunteer organization.

(C) Volunteer work must be time spent directly with persons who have a mental illness and/or substance use disorder.

(4) Oklahoma State Bureau of Investigation (OSBI) name-based criminal history report. The report must be an official OSBI document. If there is an incident of stolen identity, a Criminal History Record Theft number and letter must be submitted with the application; and

(5) Application fee.

~~(c)~~(d) Each CM II applicant qualifying under 450:50-3-1(b)(2)(D) is required to submit his or her transcript with the initial application. If the transcript does not list a degree on the Approved Degree List developed by the Department and the applicant does meet any of the other qualifications ~~of 450:50-3-1(b)(1)(B) through 450:50-3-1(b)(1)(D)~~listed in 450:50-3-1(b)(2), a review of the transcript is required. The Department will review the transcript to determine if a minimum of thirty-six (36) hours of behavioral health related course work was completed. If, after Department review, it is determined the minimum requirement is not met, the applicant will not be eligible to continue application for CM II but will be eligible to continue application for CM I if all other requirements are met.

~~(d)~~(e) An application must be submitted and approved by the Department prior to attending any ~~web-based or face-to-face Certified~~ Behavioral Health Case Manager certification training.

~~(e)~~(f) Applications shall only be valid for a period up to six (6) months from the date of application.

~~(f)~~(g) The applicant is not considered certified until verification of employment, exam approval results, and proof of the applicable Behavioral Health Case Management training has been submitted.

~~(g)~~(h) Applicants shall have no violations of moral turpitude or misconduct as set forth in these rules during time of application process.
~~(h)~~(i) An applicant, who meets the requirements for certification and otherwise complied with this Chapter, shall be eligible for certification.

450:50-3-3. Duration of certification [AMENDED]
(a) **Issuance.** ODMHSAS will issue an appropriate certification to all applicants who successfully complete the requirements for certification as specified in this Chapter.
(b) **Renewal.** Unless revoked, certification issued pursuant to this Chapter must be renewed by June 30 of the calendar year following twelve (12) months of continuous certification and annually thereafter. Renewal is accomplished by submitting:
(1) The renewal application form completed in full according to its instructions;
(2) Annual report of continuing education units with accompanying documentation;
(3) Proof of ~~certification as a Certified Psychiatric Rehabilitation Practitioner (CPRP) or Child and Family Resiliency Practitioner (CFRP) or~~ licensure as a registered nurse, if applicable; and
(4) The renewal fee.
(c) **Suspension and Reinstatement.** Certifications not renewed by the renewal deadline will be suspended. A suspended certification may be renewed by submitting required fees and documentation of continuing education within six (6) months of the date of suspension. Suspended certifications not renewed within this six (6) month timeframe will be terminated. The individual must then ~~wait a period of sixty (60) days and~~ submit a new application for certification and successfully complete the requirements for initial certification as specified in this Chapter~~.~~, with the exception of required training, which may be waived if approval from the Department is obtained by the individual and the new application is received within twelve (12) months of the suspension date.

450:50-3-5. Fitness of applicants [AMENDED]
(a) The purpose of this section is to establish the fitness of the applicant as one of the criteria for approval of certification as a ~~Certified~~ Behavioral Health Case Manager and to set forth the criteria by which the Commissioner will determine the fitness of the applicants.
(b) The substantiation of any of the following items related to the applicant may be, as determined by the ~~Commissioner or designee~~Department, ~~determines~~ the basis for the denial of or delay of certification of the applicant:
(1) Lack of necessary skills and abilities to provide adequate services;
(2) Misrepresentation on the application or other materials submitted to the Department;
(3) Any conviction of a crime involving a child or vulnerable adult;
(4) Any conviction of a sex offense not identified in (b)(5)(D) of this Section;
(5) Any other felony conviction, unless the applicant can demonstrate to the Department's satisfaction the successful completion of a minimum of one (1) year of probation related to one or more of the offenses below:
(A) Forgery, fraud, or perjury;
(B) Burglary, arson, embezzlement, knowingly concealing stolen property, leaving the scene of an accident, or larceny;
(C) Possession, manufacturing, distribution, maintaining a dwelling, driving under the influence, contributing to the delinquency of a minor, or parent causing delinquency; or
(D) Prostitution or nonconsensual dissemination of private sexual images.
(6) A violation of the rules of professional conduct set forth in this Chapter.
(c) The Department shall obtain document(s) necessary to determine the fitness of an applicant.
(d) The Department may require explanation of negative references prior to issuance of certification.

450:50-3-7. Scope of Behavioral Health Case Manager Certifications [AMENDED]
(a) ~~Certified~~Individuals certified as a Behavioral Health Case Manager II are authorized to provide behavioral health case management and behavioral health rehabilitation services.
(b) ~~Certified~~Individuals certified as a Behavioral Health Case Manager I are authorized to provide behavioral health case management services.

SUBCHAPTER 5. BEHAVIORAL HEALTH CASE MANAGER CERTIFICATION TRAINING AND WEB-BASED COMPETENCY EXAMS

450:50-5-1. Training requirements [AMENDED]

(a) The purpose of this section is to delineate the training requirements for each of the classifications of ~~Certified~~ Behavioral Health Case Managers ~~(CMs)~~.

(b) The Department shall have the authority and responsibility for providing case management and behavioral health rehabilitation services training classes on a regular basis but no less than six times during the year.

(c) ~~Certified~~Applicants for certification as a Behavioral Health Case ~~Managers~~Manager I (CM I) must complete ~~two days of~~ case management training as specified by the Department.

~~(d) Certified Behavioral Health Case Manager II (CM II) Training requirements:~~

~~(1) Complete the behavioral health case management training as specified by the Department;~~

~~(2) Complete the behavioral health rehabilitation web-based training as specified by the Department. This requirement does not apply to applicants who are Certified Psychiatric Rehabilitation Practitioner (CPRPs) or Child and Family Resiliency Practitioner (CFRPs); and~~

~~(3) Complete behavioral health rehabilitation training as specified by the Department. This requirement does not apply to applicants who are Certified Psychiatric Rehabilitation Practitioner (CPRPs) or Child and Family Resiliency Practitioner (CFRPs).~~

(d) Applicants for certification as Behavioral Health Case Manager II (CM II) must complete behavioral health case management training and behavioral health rehabilitation training as specified by the Department.

(e) Required training must be completed within six (6) months from the date the application was submitted. Once the six (6) month period has ended, an applicant that has not completed the training must submit a new application.

(f) Approval to take the web-based competency exam is not permitted without completion of all training requirements.

450:50-5-4. Continuing education requirements [AMENDED]

(a) ~~Certified~~ Behavioral Health Case Managers must complete twelve (12) hours continuing education per year and submit documentation of the continuing education to ODMHSAS annually for consideration.

(b) Continuing education is acceptable when it provides information to enhance delivery of behavioral health case management and behavioral health rehabilitation services and;

(1) Meets the requirements for LPC, LMFT, LBP, LCSW, LMSW, CADC, LADC, or CME continuing education; or

(2) Is an undergraduate or graduate course in a behavioral health related field and pertains to direct interaction with consumers. ~~(three~~Three (3) hours of course work is equal to twelve (12) hours of CEUs~~).~~; or

(3) ~~The ODMHSAS Director of Community Based Services or designee shall approve all in-house/agency trainings that are provided~~Is an ODMHSAS-approved training for ~~the intent of submitting towards~~ case management CEUs ~~(unless they meet the requirement in 450:50-5-4(b)(2)~~. Certified case managers shall not submit more than three (3) hours of these approved CEUs annually towards their required minimum.

(c) ~~Certified~~ Behavioral Health Case Managers must complete, as part of their required twelve (12) hours annually, three (3) hours of ethics training every year. Ethics training must meet the requirements for LPC, LMFT, LBP, LCSW, CADC, LADC or CME ethics training~~; and annually, three (3) hours of training related to Strengths-Based/Recovery Principles~~.

(d) ~~Certified~~ Behavioral Health Case Managers shall retain documents verifying attendance for all continuing education hours claimed for the reporting period. Documentation shall be submitted upon the request of the Department. Acceptable verification documents include:

(1) An official continuing education validation form furnished by the presenter; or

(2) A letter or certificate from the organization sponsoring the training verifying name of program, presenter, number of hours attended, participant's name, and approval by licensure board; or

(3) ~~An official grade~~A transcript verifying completion of the undergraduate or graduate course. ~~Ethics or Strengths based/Recovery Principles curriculum training must be verified with a course syllabus or other information submitted with official transcript.~~

(e) Failure to complete the continuing education requirements and submit the required documentation by the renewal date renders the certification in suspension, and results in the loss of all rights and privileges of a ~~Certified~~ Behavioral Health Case Manager. ~~The Certified Behavioral Health Case Manager certification may be reinstated during a period of no longer than six (6) months following the suspension date. The Certified Behavioral Health Case Manager has the right to renew the certificate by payment of renewal fees ($15.00) and late renewal fees ($25.00) and documentation of obtaining twelve (12) hours of continuing education.~~A suspended certification may be reinstated if all requirements are met in accordance with 450:50-3-3.

450:50-5-5. Web-based competency exams [AMENDED]

(a) Successful completion of web-based competency exams for behavioral health rehabilitation and behavioral health case management is required prior to certification as CM II. ~~Applicants certified through USPRA and applicants to be a~~ CM I applicants need only successfully complete the web-based competency exam for behavioral health case management.
(b) The web-based competency exam shall not be administered until all application and training requirements are met and approval from ODMHSAS has been received.
(c) Applicants shall comply with the rules of the examination process as outlined by the contracted testing site.
(d) Applicants who fail to complete and pass the web-based competency exam within six (6) months of the date the application was submitted must reapply and re-complete the required training.

SUBCHAPTER 7. RULES OF PROFESSIONAL CONDUCT

450:50-7-1. Responsibility and scope of practice [AMENDED]
(a) ~~Certified~~ Behavioral Health Case Managers shall be dedicated to advancing the welfare of individuals, and children and their families. ~~Certified~~ Behavioral Health Case Managers shall not participate in, condone, or be associated with dishonesty, fraud, deceit or misrepresentation, and shall not exploit their relationships with the consumers for personal advantage, profit, satisfaction, or interest.
(b) ~~Certified~~ Behavioral Health Case Managers shall practice only within the boundaries of their individual certifications and competence based on their education, training, supervised experience, state and national accreditations and licenses.
(c) ~~Certified~~ Behavioral Health Case Managers shall only use the title if employed by ~~the state or a private or nonprofit behavioral health services provider contracting with the state to provide behavioral health services~~an eligible provider pursuant to 450:50-3-1. ~~As an employee of a state or a private or nonprofit behavioral health provider, reimbursement~~Reimbursment for services rendered ~~will~~shall not be collected outside of the agency's system of service reimbursement.
(d) ~~Certified~~ Behavioral Health Case Managers shall not directly or indirectly suggest that they are allowed to provide "therapy" or "counseling" services unless licensed or accredited by the appropriate authority to provide therapy and/or counseling services.
(e) ~~Certified Behavior~~Behavioral Case Managers shall adhere to the following code of ethics that are set within the rules of this chapter and set forth by the Department.

(1) ~~Certified~~ Behavioral Health Case Managers shall be committed to respect the dignity and autonomy of all persons that is to include, but is not limited to professional relationships with clients (or former clients), supervisees, students, employees, or research participants in efforts to maintain the highest standards of their practice.
(2) ~~Certified~~ Behavioral Health Case Managers shall terminate service to clients, and professional relationships with them, when such service and relationships are no longer required or in which a conflict of interest arises.
(3) ~~Certified~~ Behavioral Health Case Managers shall be aware of and respect cultural, individual, and role differences, including those based on age, gender, gender identity, race, ethnicity, culture, national origin, religion, sexual orientation, disability, language, and socioeconomic status and consider these factors when working with members of such groups. They shall also eliminate the effect on their work of biases based on those factors, and they do not knowingly participate in or condone activities of others based upon such prejudices or influence.
(4) ~~Certified~~ Behavioral Health Case Managers shall be obligated to report witnessed, involved, or reported ethical violations without violation of any confidentiality rights that may be involved. ~~Certified~~ Behavioral Health Case Managers shall be obligated to follow steps of reporting professional misconduct as set forth by the Department and in this chapter.
(5) ~~Certified~~ Behavioral Health Case Managers shall give precedence to his or her professional responsibility over personal interests.

(f) ~~Certified~~ Behavioral Health Case Managers shall not exploit their relationships with current or former clients, supervisees, students, employees, or others, sexually or otherwise, for personal advantage, profit, satisfaction, or interest.

(1) ~~Certified~~ Behavioral Health Case Managers shall be committed to each individual's rights of their own life choices and recovery journey by letting them direct their own healing process.
(2) ~~Certified~~ Behavioral Health Case Managers shall keep confidential all information entrusted except when to do so puts the consumer at grave risk. Case Managers will be obligated to explain the limits of confidentiality initially in the professional working relationship.
(3) If the demands of an affiliated organization for whom the ~~Certified~~ Behavioral Health Case Manager is working, is in conflict with these ethics, the issues must be clarified and resolved to allow adherence to the Rules of professional Conduct code set forth in this chapter.

(g) ~~Certified~~ Behavioral Health Case Managers shall provide services with populations and in areas only within the boundaries of their competence, based on education, training, supervised experience, consultation, study or professional experience.

(1) ~~Certified~~ Behavioral Health Case Managers that delegate or assign work to employees, supervisee, or assistants must take reasonable steps to see that such person performs the services competently.
(2) ~~Certified~~ Behavioral Health Case Managers are eligible to provide services within the scope of their certifications that would not lead to conflict of interest, exploitation of relationship, loss of objectivity and based on education, training or experience.
(3) ~~Certified~~ Behavioral Health Case Managers shall provide clients at the beginning of service written, accurate and complete information regarding the extent and nature of the services available to them, to include fees and manner of payment.
(4) ~~Certified~~ Behavioral Health Case Managers shall not solicit the clients of one's agency for private practice or to change service locations.
(5) ~~Certified~~ Behavioral Health Case Managers shall not commit fraud and shall not represent that she or he performed services which they did not perform.

450:50-7-2. Consumer welfare [AMENDED]

(a) ~~Certified~~ Behavioral Health Case Managers shall not, in the rendering of their professional services, participate in, condone, or promote discrimination on the basis of race, color, age, gender, sexual orientation, religion, disability, behavioral health condition or national origin.
(b) ~~Certified~~ Behavioral Health Case Managers must be aware of their influential positions with respect to consumers and not exploit the trust and dependency of consumers. ~~Certified~~ Behavioral Health Case Managers shall refrain from dual relationships with consumers because of the potential to impair professional judgment and to increase the risk of harm to consumers. Examples of such relationships include, but are not limited to familial, social, financial, business, and professional or close personal relationships with consumers.

(1) ~~Certified~~ Behavioral Health Case Managers shall not have any type of sexual contact with consumers and shall not provide case management services to persons with whom they have had a sexual relationship.
(2) ~~Certified~~ Behavioral Health Case Managers shall not engage in sexual contact with former consumers
(3) ~~Certified~~ Behavioral Health Case Managers shall not knowingly enter into a close personal relationship, or engage in any business or financial dealings with a former client for five (5) years after the termination of the case management relationship.

(c) If a ~~Certified~~ Behavioral Health Case Manager determines that he or she is unable to be of professional assistance to a consumer, the ~~Certified~~ Behavioral Health Case Manager shall refer the consumer to appropriate sources when indicated. If the consumer declines the referral the ~~Certified~~ Behavioral Health Case Manager shall terminate the relationship and document the consumer's decision.
(d) ~~Certified~~ Behavioral Health Case Managers shall report any violation of professional conduct by a ~~Certified~~ Behavioral Health Case Manager as outlined in this chapter.
(e) The Department shall conduct itself in a manner to intervene in an immediate action to protect a consumer(s) according to the guidelines and rules provided, to prevent further detriment to any consumer.

450:50-7-4. Professional standards [AMENDED]

(a) It shall be unprofessional conduct for a ~~Certified~~ Behavioral Health Case Manager or applicant to violate a state or federal statute if the violation is directly related to the duties and responsibilities of the counselor or if the violation involves moral turpitude.
(b) ~~Certified~~ Behavioral Health Case Managers shall not render professional services while under the influence of alcohol or other mind or mood altering drugs.
(c) ~~Certified~~ Behavioral Health Case Managers shall notify the Department of any change in name, address, telephone number and employment if the case manager will continue to provide case management services as defined by 450:50-1-2 in the new employment setting.

450:50-7-5. Failure to comply [AMENDED]

An approved case management applicant or ~~Certified~~ Behavioral Health Case Manager who does not comply with the Rules of Professional Conduct (450:50-7-1) or consumer welfare (450:50-7-2) shall be guilty of unprofessional conduct and subject to disciplinary action.

SUBCHAPTER 9. ENFORCEMENT

450:50-9-1. Enforcement [AMENDED]

(a) ODMHSAS may impose administrative sanctions, including revocation, suspension, non-renewal of certification and reprimand, against ~~Certified~~ Behavioral Health Case Managers.
(b) All proceedings, hearing and appeals shall be conducted in accordance with Chapter 1 of the Rules of ODMHSAS, Title 450 Oklahoma Administrative Code and the Administrative Procedures Act.

[OAR Docket #24-729; filed 7-2-24]

TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 53. STANDARDS AND CRITERIA FOR CERTIFIED PEER RECOVERY SUPPORT SPECIALISTS

[OAR Docket #24-730]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
450:53-1-2. Definitions [AMENDED]
450:53-1-3. Authority of the Commissioner and Department [AMENDED]
Subchapter 3. Peer Recovery Support ~~Specialists~~Specialist Certification Application [AMENDED]
450:53-3-1. Qualifications for certification [AMENDED]
450:53-3-2. Applications for certification [AMENDED]
450:53-3-3. Duration of certification [AMENDED]
450:53-3-5. Fitness of applicants [AMENDED]
Subchapter 5. Peer Recovery Support ~~Specialists Certification, Training, Exam and CEU's~~Specialist Certification Training and Competency Exam [AMENDED]
450:53-5-1. ~~Peer Recovery Support Specialists minimum education~~Training requirements [AMENDED]
450:53-5-2. ~~Peer Recovery Support Specialists certification examination~~Competency exams [AMENDED]
450:53-5-3. Continuing education requirements [AMENDED]
Subchapter 7. Rules of Professional Conduct
450:53-7-1. Responsibility [AMENDED]
450:53-7-2. Competence and scope of practice [AMENDED]
450:53-7-3. Proficiency [AMENDED]
450:53-7-4. Wellbeing of the people served [AMENDED]
450:53-7-5. Professional standards [AMENDED]
450:53-7-6. Reimbursement for services rendered [AMENDED]
450:53-7-7. Failure to comply [AMENDED]
450:53-7-8. Personal Problems and Conflicts [AMENDED]
450:53-7-9. ~~C-PRSS~~ Supervision [AMENDED]
Subchapter 9. Enforcement
450:53-9-1. Enforcement [AMENDED]
AUTHORITY:
Oklahoma Board of Mental Health and Substance Abuse Services; 43A O.S. §§ 2-101, 3-306 and 3-318
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 25, 2023
COMMENT PERIOD:
November 15, 2023 through December 15, 2023
PUBLIC HEARING:
December 18, 2023
ADOPTION:
January 25, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 29, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
September 1, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The proposed rule revisions amend qualifications, application requirements, and training requirements to include family support specialists to be certified as Peer Recovery Support Specialists under Chapter 53. Other clean-up changes, revisions to definitions, and clarifications are also made.
CONTACT PERSON:
Melissa Miller, Chief of Policy and Provider Regulation/Administrative Rules Liaison, Melissa.Miller@odmhsas.org or (405) 248-9345

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 1, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

450:53-1-2. Definitions [AMENDED]

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

"Board" means the State Board of Mental Health and Substance Abuse Services.

~~**"Certified Peer Recovery Support Specialists** or **C-PRSS"** means any person who is certified by the Department of Mental Health and Substance Abuse Services to offer behavioral health services as provided in this Chapter.~~

"Commissioner" means the Commissioner of Mental Health and Substance Abuse Services.

~~**"Employed"** means, for purposes of this chapter only, employed by or volunteer with the State, a behavioral health service provider or an advocacy agency contracting with the State to provide behavioral health services, or a behavioral health services provider certified by ODMHSAS, employed by a tribe or tribal facility that provides behavioral health services, or employed by an Oklahoma Department of Veterans Affairs or a United States Department of Veterans Affairs facility.~~

~~**"Exam"** as prescribed by the Department, is an exam individuals must pass to become certified.~~

~~**"Consumer"** means an individual, adult or child, who has applied for, is receiving or has received mental health or substance abuse evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts.~~

"Consumer" means an individual who has applied for, is receiving or has received evaluation or treatment services from a facility operated or certified by ODMHSAS or with which ODMHSAS contracts and includes all persons referred to in OAC Title 450 as client(s) or patient(s) or resident(s) or a combination thereof.

"Department" or **"ODMHSAS"** means the Oklahoma Department of Mental Health and Substance Abuse Services.

"Dual relationship" means a familial, financial, business, professional, close personal, sexual or other non-therapeutic relationship with a consumer, or engaging in any activity with another person that interferes or conflicts with the ~~Certified~~ Peer Recovery Support Specialists' professional obligation to a consumer.

"Family Support" means using lived experience to ensure engagement and active participation of the family throughout the treatment process and assist family members in developing knowledge and skills to promote their family member's recovery.

"Family Peer Recovery Support Specialist" or **"F-PRSS"** means any person who is certified by ODMHSAS to offer family peer support services in accordance with this Chapter.

"Peer Recovery Support Specialist" or **"PRSS"** means any person who is certified by ODMHSAS to offer peer support services in accordance with this Chapter.

"Peer Support" means using lived experience to navigate treatment, foster relationships with community resources and supports, and develop a plan for overall well-being. These services and supports are valued as a component of treatment and integrated into the continuum of care to promote individual growth and enhance social connection.

"Recovery" ~~for purposes of this chapter only refers to~~means a journey of healing and transformation enabling people with mental health and/or substance use challenges to live a meaningful life in the community of their choice while striving to achieve their full potential. The process of recovery leads individuals toward the highest level of autonomy of which they are capable. Key characteristics of recovery include:

(A) Recovery is self-directed, personal and individualized (not defined by treatment providers or agencies);

(B) Recovery is holistic. Recovery is a process through which one gradually achieves greater balance of mind, body and spirit in relation to other aspects of one's life that can include family, work and community;

(C) Recovery moves beyond symptom reduction and relief (i.e. meaningful connections in the community, developing specific skill sets, establishing a sense of quality and well-being);

(D) Recovery is both a process of healing (regaining) and a process of discovery (moving beyond);

(E) Recovery encompasses the possibility for individuals to explore, make mistakes and try again; and

(F) Recovery can occur within or outside the context of professionally directed treatment.

"Wellness" means an active process of becoming aware of and making choices toward a healthy and fulfilling life. Wellness is more than being free from illness, it is a dynamic process of change and growth.

450:53-1-3. Authority of the Commissioner and Department [AMENDED]

(a) The Commissioner or designee shall have the authority and duty to issue, renew, revoke, deny, suspend and/or place on probation certifications to offer peer recovery support services.

(b) The Department shall have authority to:

(1) Receive and deposit fees as required by 43A O.S. § 3-326(C);

(2) Examine all qualified applicants for ~~Certified~~ Peer Recovery Support Specialists training and certification;

(3) Investigate complaints and possible violation of the rules and standards of Peer Recovery Support Specialists;

(4) Make recommendations regarding the outcome of formal complaints; and

(5) Enforce the recommendations of the formal complaint process.

SUBCHAPTER 3. PEER RECOVERY SUPPORT ~~SPECIALISTS~~SPECIALIST CERTIFICATION APPLICATION [AMENDED]

450:53-3-1. Qualifications for certification [AMENDED]

~~Each applicant~~Applicants for certification as a Peer Recovery Support ~~Specialists~~Specialist shall:

(1) Possess a High School Diploma, General Equivalency Diploma (GED), High School Equivalency (HSE) Credential, or college or university degree;

(2) Have demonstrated self-driven recovery from a mental ~~illness,~~health and/or substance ~~abuse~~use disorder ~~or both~~, or have experience utilizing strategies as a family member/caregiver to support recovery of a child or adolescent with a mental health and/or substance use disorder;
(3) Be at least ~~18~~eighteen (18) years of age;
(4) Be willing to self-disclose about their own recovery or their experience as a family member/caregiver of a child or adolescent with a mental health and/or substance use disorder;
(5) Be employed by or intern with, within six (6) months from the date the application was submitted~~, the state, a behavioral service provider or an advocacy agency contracting with the state to provide behavioral health services, or a behavioral health services provider certified by ODMHSAS, employed by a tribe or tribal facility that provides behavioral health services, or employed by an Oklahoma Department of Veterans Affairs or a United States Department of Veterans Affairs facility.~~:
(A) The State of Oklahoma;
(B) A behavioral health services provider contracting with the state to provide behavioral health services;
(C) A behavioral health services provider certified by ODMHSAS;
(D) A tribe or tribal facility that provides behavioral health services; or
(E) An Oklahoma Department of Veterans Affairs or United States Department of Veterans Affairs facility.
(6) Possess good moral character;
(7) Be actively working on recovery and/or overall wellness;
(8) Complete training in accordance with this Chapter;
~~(8)~~(9) Pass ~~an~~a competency examination ~~based on standards promulgated by ODMHSAS pursuant to 43A O.S. § 3-326~~in accordance with this Chapter;
~~(9)~~(10) Not be engaged in any practice or conduct which would be grounds for denying, revoking or suspending a certification pursuant to this ~~title~~Title; and
~~(10)~~(11) Otherwise comply with rules promulgated by the Board implementing 43A O. S. § 3-326.

450:53-3-2. Applications for certification [AMENDED]
(a) Applications for certification as a Peer Recovery Support Specialist (PRSS) shall be submitted to the Department on a form and in a manner prescribed by the Commissioner or designee.
(b) An application shall include the following items:
(1) Application form completed in full according to its instructions;
~~(2) Application fee in an amount up to $50.00;~~
~~(3)~~(2) Employment status verification form(s) showing current status as an employee ~~of the state of Oklahoma, a behavioral service provider, advocacy agency contracting with the state to provide behavioral health services, a behavioral health services provider certified by ODMHSAS, a tribe or tribal facility that provides behavioral health services, or an Oklahoma Department of Veterans Affairs or United States Department of Veterans Affairs facility~~or intern at an eligible employer in accordance with 450:53-3-1. The employment status verification form(s) must be sent to ODMHSAS by the employer but may be provided up to six (6) months after submission of the application form and other required materials;
~~(4)~~(3) Oklahoma State Bureau of Investigation (OSBI) name-based criminal history report. The report must be an official OSBI document. If there is an incident of stolen identity, a Criminal History Record Theft number and letter must be submitted with the application. The report may be supplied by the applicant or the applicant's employer;
~~(5)~~(4) Official high school transcript, General Equivalency Diploma (GED), High School Equivalency (HSE) Credential, or college or university transcript. An unofficial transcript may be accepted if the document can be substantiated by the Department;
~~(6)~~(5) Documentation of age; ~~and~~
~~(7)~~(6) Detailed information, as requested on the application, demonstrating ~~recovery from a mental illness, substance abuse disorder or both.~~self-recovery from or family/caregiver experience with mental illness and/or substance use disorder; and
(7) Fees.
(c) An applicant, who meets the requirements for certification and otherwise complied with the Chapter, shall be eligible for certification.
(d) An application must be submitted at least fourteen (14) days prior to attending ~~Peer Recovery Support Specialists~~PRSS training.

(e) Applications shall be submitted and approved by the Department prior to eligibility of taking the ~~C-PRSS~~PRSS training.
(f) The applicant is not considered certified until verification of employment, exam approval results, and proof of the required training has been submitted.
(g) Applications shall only be valid for a period up to six (6) months.

450:53-3-3. Duration of certification [AMENDED]
~~(a) Certification issued pursuant to this Chapter shall require renewal annually unless revoked. Certified Peer Recovery Support Specialists must renew their certification prior to December 31st of the renewal year.~~
~~(b) Renewal shall be accomplished by submitting the annual report of continuing education units (CEU's) with accompanying documentation and the renewal fee.~~
~~(c) A certification not renewed by the December 31st deadline will be suspended. Submitting required documentation of continuing education units along with required fees within six (6) months of the expiration date shall renew a suspended certification. Certificates not renewed within six (6) months will not be reinstated and shall result in forfeiture of the rights and privileges granted by the certification.~~
~~(d) A certification that was not renewed within the period provided and was not reinstated must wait a period of sixty (60) days before reapplying and shall submit a new application.~~
(a) **Issuance.** ODMHSAS will issue an appropriate certification to all applicants who successfully complete the requirements for certification as specified in this Chapter.
(b) **Renewal.** Unless revoked, certification issued pursuant to this Chapter must be renewed by December 31 of the calendar year following twelve (12) months of continuous certification and annually thereafter. Renewal is accomplished by submitting:
(1) The renewal application;
(2) Annual report of continuing education units with accompanying documentation; and
(3) The renewal fee.
(c) **Suspension and Reinstatement.** Certifications not renewed by the renewal deadline will be suspended. A suspended certification may be renewed by submitting required fees and documentation of continuing education within six (6) months of the date of suspension. Suspended certifications not renewed within this six (6) month timeframe will be terminated. The individual must then submit a new application for certification and successfully complete the requirements for initial certification as specified in this Chapter, with the exception of required training, which may be waived if approval from the Department is obtained by the individual and the new application is received within twelve (12) months of the suspension date.

450:53-3-5. Fitness of applicants [AMENDED]
(a) The purpose of this section is to establish the fitness of the applicant as one of the criteria for approval of certification as a ~~Certified~~ Peer Recovery Support ~~Specialists~~Specialist and to set forth the criteria by which the Commissioner or designee shall determine the fitness of the applicants.
(b) The substantiation of any of the following items related to the applicant shall be, as the Commissioner or designee determines, the basis for the denial of or delay of certification of the applicant:
(1) Lack of necessary skills and abilities to provide adequate services;
(2) Misrepresentation on the application or other materials submitted to the Department;
(3) Any action that would otherwise be considered a violation of the rules of professional conduct set forth in this Chapter; or
(4) Certain felony conviction(s), as determined by the Department.
(c) The Department shall obtain document(s) necessary to determine the fitness of an applicant.
(d) The Department may require explanation of negative references prior to issuance of certification.

SUBCHAPTER 5. PEER RECOVERY SUPPORT ~~SPECIALISTS CERTIFICATION, TRAINING, EXAM AND CEU'S~~SPECIALIST CERTIFICATION TRAINING AND COMPETENCY EXAM [AMENDED]

450:53-5-1. ~~Peer Recovery Support Specialists minimum education~~Training requirements [AMENDED]
~~The purpose of this section is to delineate the training requirements for the Certified Peer Recovery Support Specialists.~~
~~(1) The Department shall have the authority and responsibility for providing Peer Recovery Support Specialists training classes a minimum of three times during the year.~~

~~(2) Request for attending the certification training must be made to the Department fourteen (14) days prior to the beginning of scheduled classes.~~
~~(3) In order to fulfill the certification training requirements, an applicant must attend and complete a forty (40) hour PRSS training block covering various aspects of recovery, ethics and/or boundaries, mental health and substance abuse as specified by the Department.~~
~~(4) Applicants must attend the entire forty (40) hour training block. Absences are excused only for emergencies. An absence lasting over one day shall cause the trainee to be subject to retaking the entire forty (40) hour training block at the next scheduled training course.~~
~~(5) Applicants are responsible for completing homework during the forty (40) hour training block.~~
~~(6) Applicants must be able to demonstrate their ability to verbally share their recovery journey with others in a safe, concise, and trauma-informed manner.~~

(a) In order to obtain certification as a Peer Recovery Support Specialist, each applicant must:
(1) Attend and complete a PRSS training block covering various aspects of recovery, ethics and/or boundaries, mental health and substance use as specified by the Department. Applicants for certification as a Family Peer Recovery Support Specialist must attend and complete a training block that includes Family Support training as prescribed by the Department.
(2) Attend the entire training block. Absences are excused only for emergencies. An absence lasting over one day shall cause the trainee to be subject to retaking the entire training block at the next scheduled training course.
(3) Complete required homework during the training block.
(4) Demonstrate their ability to verbally share their recovery journey or experience as a family member/caregiver with others in a safe, concise, and trauma-informed manner.
(b) The Department shall have the authority and responsibility for providing Peer Recovery Support Specialists training classes a minimum of three times during the year.
(c) Request for attending the certification training must be made to the Department at least fourteen (14) days prior to the beginning of scheduled classes.

450:53-5-2. ~~Peer Recovery Support Specialists certification examination~~Competency exams [AMENDED]

Examinations shall be held at such times, at such places and in such manner as the Commissioner or designee directs. The examination shall cover such technical, professional and practical subjects as relate to the practice of a ~~Certified~~ Peer Recovery Support Specialist.
(1) Certification exams consist of a written exam covering all aspects of the training block.
(2) An applicant must score at least a seventy-five percent (75%) to pass the exam and be certified. A score of seventy-four percent (74%) or less will result in an applicant being required to test again at the next scheduled test date, or at a time and manner approved by the ~~Commissioner or designee~~Department.
(3) Applicants who fail to complete and pass the certification exam within six (6) months of application must reapply.

450:53-5-3. Continuing education requirements [AMENDED]

(a) ~~Certified~~ Peer Recovery Support Specialists must complete twelve (12) hours of continuing education per year and submit documentation of attendance for the continuing education to the Department annually.
(b) The Department will use the following criteria to determine approval of acceptable CEU courses:
(1) Provides information to enhance delivery of ~~Peer Support Services~~peer recovery support services and has been approved by ~~Commissioner or designee~~ODMHSAS; or
(2) Is a required undergraduate or graduate course in a behavioral health related field and pertains to direct interaction with consumers (three (3) hours of course work is equal to twelve (12) hours of CEUs); and
(3) At least three (3) of the continuing education hours must be in ethics.
(4) Continuing education accrual from teaching continuing education or sharing recovery stories may also be accrued when the ~~C-PRSS~~PRSS teaches in programs such as seminars, workshops and conferences, or shares lived experience in settings such as community events, public forums, and news articles, when the content conforms to Peer Support and is not a required part of the ~~C-PRSS~~PRSS regular employment. No more than three (3) hours of continuing education may be accrued per year through teaching and sharing activities.
(c) ~~Certified~~ Peer Recovery Support Specialists shall retain documents verifying attendance for all continuing education units claimed for the reporting period. Acceptable verification documents include:
(1) ~~An official~~A continuing education validation form or certificate furnished by the presenter indicating the topic and number of CEUs given for the course; ~~and/or~~or
(2) A copy of the agenda showing the content and presenter for the course; and

(3) A signed copy of ~~C-PRSS~~PRSS Attestation Form.

(d) Failure to complete the continuing education requirements and submit the required documentation by the renewal date renders the certification in suspension, and results in the loss of all rights and privileges of a ~~Certified~~ Peer Recovery Support Specialists. The ~~Certified~~ Peer Recovery Support Specialists certification may be reinstated ~~during a period of no longer than six (6) months following the suspension date~~if all requirements are met in accordance with 450:53-3-3. ~~If not reinstated the certification shall become null and void.~~

SUBCHAPTER 7. RULES OF PROFESSIONAL CONDUCT

450:53-7-1. Responsibility [AMENDED]

It shall be the responsibility of ~~Certified~~ Peer Recovery Support Specialists, in their commitment to assist consumers in regaining control of their lives and recovery processes, to value objectivity and integrity, and in providing services, to strive to maintain the highest standards of their profession. ~~Certified~~ Peer Recovery Support Specialists shall accept responsibility for the consequences of their work and make every effort to ensure that their services are used appropriately. ~~Certified~~ Peer Recovery Support Specialists shall not participate in, condone, or be associated with dishonestly, fraud, deceit or misrepresentation. ~~Certified~~ Peer Recovery Support Specialists shall not exploit their relationships with consumers for personal advantage, profit, satisfaction, or interests.

450:53-7-2. Competence and scope of practice [AMENDED]

(a) Peer ~~Recovery Support~~recovery support services are an EBP model of care which consists of a qualified ~~peer recovery support provider~~Peer Recovery Support Specialist (PRSS) who assists individuals with their recovery from mental illness and/or substance use disorders.

(b) Family Peer Recovery Support Specialists focus on the family unit of a child or adolescent in recovery, ensuring the engagement and active participation of both the child/adolescent and the family in treatment and guiding families toward taking a proactive role in their family member's recovery.

~~(b)~~(c) A ~~C-PRSS~~PRSS must possess knowledge about various mental health settings and ancillary services (i.e., Social Security, housing services, and advocacy organizations). ~~Certified Peer Recovery Support Specialist (C-PRSS)~~A PRSS provides peer support services; serves as an advocate; provides information and peer support. The ~~C-PRSS~~PRSS performs a wide range of tasks to assist consumers in regaining control of their lives and recovery processes. The ~~C-PRSS~~PRSS will possess the skills to maintain a high level of professionalism and ethics in all professional interactions. ~~Examples of a PRSS' scope of practice would including~~The scope of practice of a PRSS includes the following:

(1) Utilizing their knowledge, skills and abilities the PRSS will:

(A) Teach and mentor the value of every individual's recovery experience;

(B) Model effective coping techniques and self-help strategies;

(C) Prioritize self-care and role model that recovery is possible for all people~~.~~;

(D) Assist service recipients or their family members in articulating personal goals for recovery; and

(E) Assist service recipients or their family members in determining the objectives needed to reach ~~his/her~~ recovery goals~~.~~.

(2) Utilizing ongoing training the PRSS may:

(A) Proactively engage consumers or their family members using communication skills i~~ntroducing~~to introduce new concepts, ideas, and insight to others;

(B) Facilitate peer support groups;

(C) Assist in setting up and sustaining self-help (mutual support) groups;

(D) Support consumers in using a wellness plan;

(E) Assist in creating a crisis plan/ Psychiatric Advanced Directive as instructed in the PRSS Training;

(F) Utilize and teach problem solving techniques with consumers or their family members.

(G) Teach consumers how to identify and combat negative self-talk and fears;

(H) Support the vocational choices of consumers and assist him/her in overcoming job-related anxiety;

(I) Assist in building social skills in the community that will enhance quality of life. Support the development of natural support systems;

(J) Assist other staff in identifying program and service environments that are conducive to recovery;

(K) Attend treatment team and program development meetings to ensure the presence of the consumer voice and to promote the use of self-directed recovery tools.

(3) Possess knowledge about various behavioral health settings and ancillary services (i.e. Social Security, housing services, advocacy organizations);

(4) Maintain a working knowledge of current trends and developments in the behavioral health field;
(A) Attend continuing education assemblies when offered by/approved by the Commissioner or designee;
(B) Develop and share recovery-oriented material with other ~~PRSS's~~Peer Recovery Support Specialists at peer-specific continuing education trainings.
(5) Serve as a PRSS by:
(A) Providing and advocating for effective recovery oriented services;
(B) Assist consumers in obtaining services that suit that individual's recovery needs;
(C) Inform consumers and their family members about community and natural supports and how to utilize these in the recovery process; and
(D) Assist consumers in developing empowerment skills through self-advocacy.

450:53-7-3. Proficiency [AMENDED]

(a) Peer Support: ~~C-PRSS~~A PRSS shall practice only within the boundaries of their competence, based on their education, training, supervised experience, state credentials, and appropriate professional and personal experience.
(b) Specialty: ~~C-PRSS~~A PRSS shall not represent themselves as specialists in any aspect unless so designated.
(c) Impairment: ~~C-PRSS~~A PRSS shall not offer or render professional services when such services may be impaired by a personal physical, mental or emotional condition(s). ~~C-PRSS~~A PRSS should seek assistance for any such personal problem(s) with their physical, mental or emotional condition, and, if necessary, limit, suspend, or terminate their professional activities. If any ~~C-PRSS~~PRSS possesses a bias, disposition, attitude, moral persuasion or other similar condition that limits their ability to provide peer recovery support services in that event the they shall not undertake to provide services and will terminate the relationship in accordance with these rules.

450:53-7-4. Wellbeing of the people served [AMENDED]

(a) **Discrimination.**~~C-PRSS~~A PRSS shall not, in the rendering of their professional services, participate in, condone, or promote discrimination on the basis of race, color, age, sexual orientation, gender, religion, diagnosis, behavioral health condition or national origin.
(b) **Confidentiality.**~~C-PRSS~~A PRSS shall maintain the confidentiality of any information received from any person or source about a consumer, unless authorized in writing by the consumer or otherwise authorized or required by law or court order. ~~C-PRSS~~A PRSS shall be responsible for complying with the applicable state and federal regulations in regard to the security, safety and confidentiality of any counseling record they create, maintain, transfer, or destroy whether the record is written, taped, computerized, or stored in any other medium.
(c) **Dual relationships.**~~C-PRSS~~A PRSS shall not knowingly enter into a dual relationship(s) and shall take any necessary precautions to prevent a dual relationship from occurring. When the ~~C-PRSS~~PRSS reasonably suspects that he or she has inadvertently entered into a dual relationship the ~~C-PRSS~~PRSS shall record that fact in the records of the affected person(s) and take reasonable steps to eliminate the source or agent creating or causing the dual relationship. If the dual relationship cannot be prevented or eliminated and the ~~C-PRSS~~PRSS cannot readily refer the person to another ~~C-PRSS~~PRSS, the ~~C-PRSS~~PRSS shall complete the following measures as necessary to prevent the exploitation of the person and/or the impairment of the ~~C-PRSS's~~ professional judgment of the PRSS:
(1) Consult with the ~~C-PRSS~~PRSS supervisor to understand the potential impairment to the ~~C-PRSS's~~ professional judgment of the PRSS and the risk of harm to the person of continuing the dual relationship.
(2) Fully disclose the circumstances of the dual relationship to the consumer and secure the consumer's written consent to continue providing services.
(d) **Providing services to persons of prior association.**~~C-PRSS~~A PRSS shall not undertake to provide services to any person with whom the ~~C-PRSS'~~PRSS has had any prior sexual contact or close personal relationship.
(e) **Interaction with former people with whom a ~~C-PRSS~~PRSS has provided services.** ~~C-PRSS~~A PRSS shall not knowingly enter into a close personal relationship, or engage in any business or financial dealings with a former recipient of service. ~~C-PRSS~~A PRSS shall not engage in any activity that is or may be sexual in nature with a former recipient of service after the termination of the professional relationship. ~~C-PRSS~~A PRSS shall not exploit or obtain an advantage over a former recipient of services by the use of information or trust gained during the peer recovery support professional relationship.
(f) **Invasion of privacy.**~~C-PRSS~~A PRSS shall not make inquiry into persons or matters that are not reasonably calculated to assist or benefit the peer recovery support process.
(g) **Referral.**

(1) If ~~C-PRSS~~A PRSS ~~determine~~determines that they are unable to be of professional assistance to a client, the ~~C-PRSS~~PRSS shall not enter a professional relationship. ~~C-PRSS~~A PRSS shall refer people to appropriate sources when indicated. If the person declines the suggested referral, the ~~C-PRSS~~PRSS shall terminate the relationship.
(2) ~~C-PRSS~~A PRSS shall not abandon or neglect current recipients of service in treatment without making reasonable arrangements for the continuation of such treatment.
(3) When ~~an C-PRSS~~a PRSS becomes cognizant of a disability or other condition that may impede, undermine or otherwise interfere with the ~~C-PRSS's~~ duty of responsibility to the current client, including a suspension of ~~the C-PRSS's~~ certification or any other situation or condition described in these rules, the ~~C-PRSS~~PRSS shall promptly notify the recipient of service and the facility in writing of the presence or existence of the disability or condition and take reasonable steps to timely terminate the relationship.

450:53-7-5. Professional standards [AMENDED]
(a) It shall be the responsibility of ~~Certified~~ Peer Recovery Support Specialists ~~(C-PRSS)~~, in their commitment to peer support, to value self-determination, and in providing peer services, and to strive to maintain the highest standards of their profession.
(b) ~~C-PRSS~~A PRSS shall accept responsibility for the consequences of their work and make every effort to ensure that their services are used appropriately.
(c) It shall be unprofessional conduct for a ~~C-PRSS~~PRSS to violate a state or federal statute, if the violation directly relates to the duties and responsibilities of the ~~C-PRSS~~PRSS or if the violation involves moral turpitude.
(d) ~~C-PRSS~~A PRSS shall not render peer recovery support services while under the influence of alcohol or illegal drugs or misused substances or disruptive symptoms.

450:53-7-6. Reimbursement for services rendered [AMENDED]
~~Certified~~ Peer Recovery Support Specialists shall be reimbursed for Recovery Support Services only if employed by ~~the State, by behavioral health services providers or an advocacy agency contracting with the state to provide behavioral health services~~an eligible employer in accordance with 450:53-3-1(5). Reimbursement for services rendered ~~will~~shall not be collected outside of the agency's system of service reimbursement.

450:53-7-7. Failure to comply [AMENDED]
A ~~Certified~~ Peer Recovery Support ~~Specialists~~Specialist who does not comply with the Rules of Professional Conduct shall be guilty of unprofessional conduct and subject to disciplinary action.

450:53-7-8. Personal Problems and Conflicts [AMENDED]
(a) ~~Certified~~ Peer Recovery Support Specialists shall refrain from initiating an activity when they know or should know that there is a substantial likelihood that their personal problems will prevent them from performing their work-related activities in a competent manner.
(b) When ~~Certified~~ Peer Recovery Support Specialists become aware of personal problems that may interfere with their performing work-related duties adequately, they should take appropriate measures, such as obtaining professional consultation or assistance, and determine whether they should limit, suspend, or terminate their work-related duties.

450:53-7-9. ~~C-PRSS~~ Supervision [AMENDED]
All ~~C-PRSS~~Peer Recovery Support Specialists shall report to a supervisor that has successfully completed an ODMHSAS approved Supervising PRSS Training.

SUBCHAPTER 9. ENFORCEMENT

450:53-9-1. Enforcement [AMENDED]
(a) ODMHSAS may deny the certification of any person to be a ~~Certified~~ Peer Recovery Support Specialists who fails to qualify for, or comply with, the provisions of this Chapter.
(b) ODMHSAS may reprimand, suspend, revoke or deny renewal of the certification of a person who fails to qualify for or comply with the provisions of this Chapter.

(c) In the event ODMHSAS determines action should be taken against any person certified under this Chapter, the proceeding shall be initiated pursuant to the rules of ODMHSAS as set forth in Oklahoma Administrative Code, Title 450, Chapter 1, Subchapter 5 and the Administrative Procedures Act.

[OAR Docket #24-730; filed 7-2-24]

TITLE 485. OKLAHOMA BOARD OF NURSING
CHAPTER 10. LICENSURE OF PRACTICAL AND REGISTERED NURSES

[OAR Docket #24-759]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Minimum Standards for Approved Nursing Education Programs
485:10-5-4.1. Clinical learning experiences [AMENDED]
Subchapter 19. Peer Assistance Program
485:10-19-4. Peer Assistance Committee(s) [AMENDED]
AUTHORITY:
Oklahoma Board of Nursing; 59 O.S., §§ 567.2 (A), 567.4(F), 567.12, 567.17(D)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 8, 2023
COMMENT PERIOD:
December 1, 2023 through January 19, 2024
PUBLIC HEARING:
January 23, 2024
ADOPTION:
January 23, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 24, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
Subchapter 5. Minimum Standards for Approved Nursing Education Programs
485:10-5-4.1 [AMENDED]
GUBERNATORIAL APPROVAL:
March 10, 2023
REGISTER PUBLICATION:
40 Ok Reg 692
DOCKET NUMBER:
23-234
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

Title 485.Chapter 10 changes include the following. Revisions to Subchapter 5 provide an option for Board-approved nursing education programs with at least 600 total program clinical hours to provide up to 50% simulated patient care experiences. Revisions to Subchapter 19 expand the Peer Assistance Committee membership requirements, allowing a more comprehensive applicant pool to increase participation and expand total membership. Proposed changes to 485:10-5-4.1 provide an option for Board-approved nursing education programs with at least 600 total program clinical hours to provide 50% simulated patient care experiences, provided at least one individual within the nursing education program is simulation-certified. With existing limitations of clinical sites in the state of Oklahoma, student learning opportunities can be provided in simulation labs. These changes were undertaken in an emergency rulemaking action adopted by the OK Board of Nursing on January 24, 2023, and approved by Governor Stitt on March 10, 2023. Proposed changes to 485:10-19-4 allow for expanding the Peer Assistance Committee member applicant criteria to increase the number of Committee members that serve as subject matter experts, monitoring the progression, compliance, and recovery of Peer Program Participants. The Peer Assistance Program was established to ensure the rehabilitation of nurses who may have compromised competency because of a substance use disorder(s). The Peer Assistance Committee determines Participant Program progression, assuring these nurses with substance use disorder(s) are rehabilitated and are safe to return to practice. The proposed changes decrease barriers to practicing nursing in OK while continuing to protect the public through nursing regulation. In addition, the changes allow the Peer Assistance Program to have greater flexibility in selecting Committee members thereby increasing their ability to serve participants in an effective manner.

CONTACT PERSON:

Mike Starchman, RN, CPA, Deputy Executive Director, (405) 962-1809

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 5. MINIMUM STANDARDS FOR APPROVED NURSING EDUCATION PROGRAMS

485:10-5-4.1. Clinical learning experiences [AMENDED]

To ensure adequate clinical learning experiences, nursing education programs shall:

(1) Provide an adequate amount and variety of clinical learning experience, planned by the faculty, to prepare students for practice at the appropriate educational level and to meet program outcomes.

(2) Utilize clinical facilities providing a safe environment for students' learning experiences needed to meet the objectives of the rotation. Clinical facilities are acceptable to the Board for students' clinical learning and are approved by accreditation, evaluation or licensing bodies as appropriate.

(3) Utilize written criteria for the selection of clinical facilities with evaluation of the quality of the learning experiences provided by the facility on a regular basis.

(4) Develop, maintain, and annually review, mutually with cooperating agencies,written clinical agreements specifying respective responsibilities, including provisions for continuing use by currently enrolled students, and include provisions for termination of agreement.

(5) Maintain a maximum ratio of faculty to students in clinical areas involving direct care of patients or clients defensible in light of safety, learning objectives, students' level, patient acuity and program outcomes.

(6) Utilize consistently with Board policy, clinical preceptors for supervision of students in community health, leadership/ management, independent study, elective courses, home health and selected hospitals and long-term care facility experiences. Preceptors, when utilized, are academically qualified, oriented, mentored and monitored, and have clearly documented roles and responsibilities.

(7) Provide evidence that clinical skills laboratory experiences, which may include simulated patient care experiences, are developed, implemented, and evaluated by the faculty to facilitate student preparation for clinical learning experiences.

(8) Substitute, if desire to utilize Simulated Patient Care Experiences (SPCE), up to 30% SPCE for clinical hours for each clinical course for nursing education programs on full approval status with 300 total program clinical hours or up to 50% SPCE for clinical hours for each clinical course for nursing education programs on full approval status with 600 total program clinical hours, provided at least one individual within the nursing education program is simulation-certified. Programs not on full approval status must obtain Board approval to substitute SPCE for clinical course hours.

SUBCHAPTER 19. PEER ASSISTANCE PROGRAM

485:10-19-4. Peer Assistance Committee(s) [AMENDED]

(a) Members of the Peer Assistance Committee(s) shall have expertise in chemical dependency.

(b) Composition of the Committee shall be:

(1) at least three members,

(2) at least one member ~~who is currently certified through the Addictions Nursing Certification Board and/or licensed or certified by the Oklahoma Board of Licensed Alcohol and Drug Counselors~~licensed by the respective licensing authority and has a minimum of three (3) years of experience in the treatment of substance use disorders,

(3) at least one recovering person, and

(4) the majority to be currently licensed nurses.

(5) A quorum shall be at least two members~~, with at least one member having expertise in chemical dependency~~.

(c) The committee shall have the following responsibilities:

(1) determine licensee's acceptance into program,

(2) develop with licensee a contract for program participation,

(3) meet with licensee on a specified basis to monitor and determine progress,

(4) determine successful completion of program,

(5) determine termination from program for failure to comply,

(6) report all terminations to the Board.

(d) The Peer Assistance Committee(s) shall be appointed by the Board from applications for a term of three years.

[OAR Docket #24-759; filed 7-8-24]

TITLE 515. PARDON AND PAROLE BOARD
CHAPTER 1. PROCEDURES OF THE PARDON AND PAROLE BOARD

[OAR Docket #24-718]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Meetings
515:1-7-1. Attendance [AMENDED]
515:1-7-2. Public input [AMENDED]
AUTHORITY:
Oklahoma Pardon and Parole Board; Okla. Const., Art. 6, § 10; 57 O.S. § 332.2
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 8, 2023
COMMENT PERIOD:
December 1, 2023 through January 8, 2024
PUBLIC HEARING:
January 8, 2024
ADOPTION:
February 5, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 12, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
September 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amended language in Subchapter 7 modifies the location of Board meetings and facilitation of meeting security to reflect current practice. Additionally, the amendments provide the Chair discretion to set reasonable time limits for persons appearing before the Board and limit comments if more than one person addresses the Board on the same topic. This rulemaking action is submitted as part of a package of proposed rule changes. The overarching goal is to promote fairness, transparency, efficiency, and consistency in the Pardon and Parole Board's procedures.
CONTACT PERSON:
Kyle Counts, General Counsel, Oklahoma Pardon and Parole Board, 405-521-6600, Kyle.Counts@ppb.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2024:

SUBCHAPTER 7. MEETINGS

515:1-7-1. Attendance [AMENDED]
(a) **Public.** Meetings are open to the public, except when exclusion is allowed by law. Admittance may be limited by security regulations as well as the capacity of the meeting room. Meetings are conducted at a location determined by the Board ~~the Department of Corrections facilities~~ and the Board shall facilitate ~~Department of Corrections is responsible for~~ the security for the meeting which may include contracting with an appropriate agency. Questions of admittance to the facility hosting the meeting will be determined by the Department of Corrections. Generally, Victims and Victims' Representatives will not be scheduled to appear at the same time as Inmates or their Delegates.
(b) **District Attorneys.** A portion of each meeting will be set aside for the members of the Board to hear from and ask questions of the District Attorneys and other law enforcement personnel regarding Inmates being considered for relief in a single-stage hearing, or at the second stage of a two-stage consideration for parole or commutation.
(c) **Victims and Victim representatives.** A portion of each meeting will be set aside for the members of the Board to hear from and ask questions of the Victims and Victims' Representatives to address the members of the Board regarding Inmates being considered for relief in a single-stage hearing, or at the second stage of a two-stage consideration for parole or commutation.
(d) **Inmates and Delegates.** A portion of each meeting will be set aside for the members of the Board to hear from and ask questions of the Inmates and their Delegates regarding Inmates being considered for relief in a single-stage hearing, or at the second stage of a two-stage consideration for parole or commutation.
(1) **Jacket review.** Inmates who the Board is considering by Jacket Review may have Delegates appear on their behalf in accordance with the policy of the Board.
(2) **Personal appearance.** Inmates making a Personal Appearance before the members of the Board will be allowed to appear along with their delegates in accordance with the policy of the Board.

515:1-7-2. Public input [AMENDED]

(a) **Victims and victim representatives.** Victims and Victims' Representatives may address the members of the Board during the time designated on the agenda for a maximum of five (5) minutes or a reasonable time limit at the Chair's discretion, provided that the allotted time shall be equal between Trial Officials, Delegates, and Victims and/or Victim Representatives. No more than two (2) Victims or Victims' Representatives per Inmate may appear, and only one will be allowed to address the members of the Board. The Board may hear from more than one Victim or Victims' Representative in cases in which there are multiple victims at the discretion of the Chair. Because Board meetings are open to the public, any Victim or Victims' Representative who appears to present to the Board waives confidentiality with regards to their appearance at the meeting and statements made during the meeting.

(1) **Confirmation Number.** In order to speak before the Board, a Victim or Victims' Representative must obtain a confirmation number from the administrative office. The deadline to obtain a confirmation number is 4:00 p.m. on the last full business day preceding the Board meeting at which the Board will consider the application.

(2) **In lieu of attending.** In lieu of attending in person, a Victim or Victims' Representative may provide written correspondence via email to BoardCommunications@ppb.ok.gov or mail it to the administrative office of the Board. The deadline for receipt of written correspondence is by the close of business on the Tuesday preceding the Board meeting at which the Board will consider the application.

(b) **District Attorneys.** District Attorneys or a designee, and other law enforcement personnel may address the members of the Board during the time designated on the agenda for a maximum of five (5) minutes or a reasonable time limit at the Chair's discretion, provided that the allotted time shall be equal between Trial Officials, Delegates, and Victims and/or Victim Representatives. Any member of law enforcement ~~personnel~~ that is appearing in the capacity of a Victim or Victims' Representative is requested to address the Board during the time designated for Victims and Victims' Representatives rather than during the time designated for law enforcement personnel.

(1) **Confirmation Number.** In order to speak before the Board, District Attorneys or designees, and other law enforcement personnel must obtain a confirmation number from the administrative office. The deadline to obtain a confirmation number is 4:00 p.m. on the last full business day preceding the Board meeting at which the Board will consider the application.

(2) **In lieu of attendance.** In lieu of attending in person, District Attorneys or designees, and other law enforcement personnel may provide written correspondence via email to BoardCommunications@ppb.ok.gov or mail it to the administrative office of the Board. The deadline for receipt of written correspondence is by the close of business on the Tuesday preceding a Board meeting.

(c) **Delegates.** Delegates may address the members of the Board during the time designated on the agenda for a maximum of five (5) minutes or a reasonable time limit at the Chair's discretion, provided that the allotted time shall be equal between Trial Officials, Delegates, and Victims and/or Victim Representatives. No more than two Delegates may appear on behalf of an Inmate, and only one Delegate may address the members of the Board. The Board may hear from more than one Delegate if one of the Delegates is representing an Inmate as legal counsel, or at the discretion of the the Chair.

(1) **Jacket review.** Jacket review Delegates will appear during the time designated on the agenda and address the Board without the Inmate being present.

(2) **Personal appearance.** Personal appearance Delegates will appear during the time designated on the agenda with the Inmate being present.

(3) **Confirmation number.** In order to speak before the Board, Delegates must obtain a confirmation number from the administrative office. The deadline to obtain a confirmation number is 4:00 p.m. on the last full business day preceding the Board meeting at which the Board will consider the application.

(4) **In lieu of attendance.** In lieu of attending in person, Delegates may provide written correspondence via email to BoardCommunications@ppb.ok.gov or mail it to the administrative office of the Board. The deadline for receipt of written correspondence is by the close of business on the Tuesday preceding a Board meeting.

(d) **Inmates.** Inmates who are granted a personal appearance before the members of the Board may address the Board for a maximum of five (5) minutes or a reasonable time limit at the Chair's discretion and may be questioned by the members of the Board at the discretion of the Chair.

[OAR Docket #24-718; filed 7-1-24]

TITLE 515. PARDON AND PAROLE BOARD
CHAPTER 10. CLEMENCY HEARINGS

[OAR Docket #24-719]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Clemency Hearing Procedures
515:10-5-1. Clemency hearing packets [AMENDED]
AUTHORITY:
Oklahoma Pardon and Parole Board; Okla. Const., Art. 6, § 10; 57 O.S. § 332.2
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 8, 2023
COMMENT PERIOD:
December 1, 2023 through January 8, 2024
PUBLIC HEARING:
January 8, 2024
ADOPTION:
February 5, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 12, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
September 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amended language requires an PDF electronic copy of the Clemency Hearing Packet to be submitted to the Board. This rulemaking action is submitted as part of a package of proposed rule changes. The overarching goal is to promote fairness, transparency, efficiency, and consistency in the Pardon and Parole Board's procedures.
CONTACT PERSON:
Kyle Counts, General Counsel, Oklahoma Pardon and Parole Board, 405-521-6600, Kyle.Counts@ppb.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2024:

SUBCHAPTER 5. CLEMENCY HEARING PROCEDURES

515:10-5-1. Clemency hearing packets [AMENDED]
(a) Clemency Hearing Packets must be submitted to the administrative office of the Board on or before a date set by the Chairperson.
(b) A Clemency Hearing Packet shall consist of no more than fifty pages of arguments and an appendix of no more than one hundred and fifty pages of supplemental exhibits, such as trial transcripts, photos, letters of support, etc.
(c) All pages in the appendix of the Clemency Hearing Packet shall be consecutively numbered. An argument referring to documents in the appendix shall include reference to the appendix page number.
(d) Audio or visual exhibits may be submitted in lieu of written exhibits.
(e) If audio or visual exhibits are submitted, one-hour running time shall be considered equal to fifty pages. The burden is on the party making an audio or visual exhibit in lieu of written exhibits to ensure that the submission is in a format that is readily available to the members of the Board as well as the opposing party.
(f) Clemency Hearing Packets in excess of these limitations will be rejected by the Board unless prior approval to exceed the limitation has been obtained in writing from the Chairperson of the Board.
(g) A Clemency Hearing Packet for each Board member must be submitted, along with an additional copy for the administrative office and an electronic copy in PDF format.
(h) With the exception of the copy for the Board's administrative office copy, a Clemency Hearing Packet must be submitted with pre-paid postage for mailing purposes.
(i) Failure, by either party, to deliver the Clemency Hearing Packets on or before the date set by the Chairperson shall constitute a waiver of the opportunity to submit a Clemency Hearing Packet, unless prior approval for the late filing of a packet is obtained from the Chairperson.
(j) The administrative office of the Board is responsible for mailing the Clemency Hearing Packets to the members of the Board.
(k) The Representative for the State and the Legal Representative for the Offender are responsible for providing a copy of the Clemency Hearing Packet to the other party at the same time the packet is delivered to the administrative offices of the Board. The Board shall not be responsible for the exchange of documents between the parties.
(l) The Representative for the State and the Legal Representative for the Offender is responsible for providing a copy of the Clemency Hearing Packet to the Office of the Governor at the same time the packet is delivered to the administrative offices of the Board.
(m) No supplemental documents or exhibits may be submitted to the members of the Board at the Clemency Hearing, without prior approval from the Chairperson of the Board.

[OAR Docket #24-719; filed 7-1-24]

TITLE 515. PARDON AND PAROLE BOARD
CHAPTER 15. COMMUTATION PROCEDURES

[OAR Docket #24-720]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
515:15-1-2. Definitions [AMENDED]
Subchapter 3. Commutation Eligiblity Criteria
515:15-3-1. General eligibility [AMENDED]
Subchapter 5. Commutation Application
515:15-5-1. Application for commutation [AMENDED]
515:15-5-2. Incomplete applications [AMENDED]
Subchapter 7. Victim Notification Program
515:15-7-1. Victim registration [AMENDED]
Subchapter 11. Board Review Process and Commutation Application Hearing
515:15-11-1. Application Review Process [AMENDED]
515:15-11-2. Attendance [AMENDED]
515:15-11-4. Trial Officials appearances and communication with the Board [AMENDED]
515:15-11-5. Victims or Victim Representative appearances and communication with the Board [AMENDED]

515:15-11-6. Delegate appearances and communication with the Board [AMENDED]
Subchapter 15. Reapplication
515:15-15-1. Reapplication after an unfavorable recommendation [AMENDED]

AUTHORITY:
Oklahoma Pardon and Parole Board; Okla. Const., Art. 6, § 10; 57 O.S. § 332.2
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 8, 2023
COMMENT PERIOD:
December 1, 2023 through January 8, 2024
PUBLIC HEARING:
January 8, 2024
ADOPTION:
February 5, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 12, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
September 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:

In Subchapter 1, the amendment adds a new definition for “Adverse Decisions” for purposes of reapplication requirements. Subchapter 3 is amended to establish a minimum amount of service prior to an inmate becoming eligible to apply for commutation. Subchapter 5 regarding is amended to provide solutions to excessive illegible, incomplete, and falsified applications. Section 515:15-5-1 updates commutation application requirements to clarify when an application is considered altered. The proposed amendments in Section 515:15-5-1 specify that the agency will verify commutation applications to ensure all eligibility criteria are satisfied and all required information is complete. The amendment also increases the deadline to review, verify and provide notification to the inmate of incomplete or unsatisfied eligibility criteria from 10 to 15 business days of receipt of the application. The amended language further specifies the manner in which the inmate shall provide missing information. The amended language in Section 515:15-5-1 also establishes remedies for inmates knowingly and purposefully submitting falsified applications in conformance with federal commutation practices and Oklahoma state law. Subchapter 11 adds clarifying language that specifies eligible applications will be set for review by the Board. Additionally, Subchapter 11 updates location and security of meetings and gives the Chair discretion to set reasonable time limits for persons appearing before the Board. Revisions to Subchapter 15 are being

proposed in response to individual inmates excessively reapplying for commutation after multiple recent denials and adverse decisions by the Board.

CONTACT PERSON:

Kyle Counts, General Counsel, Oklahoma Pardon and Parole Board, 405-521-6600, Kyle.Counts@ppb.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

515:15-1-2. Definitions [AMENDED]

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

"Administrative office" means the current main office for the Board, the address of which shall be posted to the Board's public website.

"Adverse decision" means a denial by the Board for commutation, a denial by the Board for parole, or an effective denial for submitting a falsified commutation application in accordance with this Chapter.

"Application review" means the process conducted by the administrative staff of the Board to determine the completeness of the application.

"Board" means Pardon and Parole Board.

"Commutation" means a reduction in the incarceration term of a sentence, or the changing of an indefinite incarceration term to a definite incarceration term.

"Commutation application" means the form approved by the Board for the consideration of a commutation.

"Complete application" means an application in which all sections of the application have been determined to be complete.

"Confirmation number" means a tracking number assigned by the Board to identify those persons who wish to appear before the Board in support or in protest of an Inmate's commutation application.

"Delegate" means a person that appears before the Board on behalf of the Inmate.

"Executive Director" means the Executive Director of the Board.

"Illegible application" means a handwritten application in which the handwriting cannot be read as determined by the Executive Director or an assigned designee.

"Incomplete application" means an application that is lacking a part, parts, or all of a section or sections or the Inmate did not sufficiently answer all questions as determined by the Executive Director or an assigned designee as required in the commutation application instructions.

"Initial Review" means a Stage One review of the application by the Board to determine if the application warrants additional investigation and further study.

"Inmate" means an applicant who is in the physical custody of the Oklahoma Department of Corrections.

"Jacket review" means a review by the Board of a complete application.

"Legal representative for the Inmate" means a person or persons who is licensed to practice law and appointed or authorized to represent the Inmate.

"Personal appearance" means an appearance by the Inmate before the Board via videoconferencing.

"Petition for reconsideration" means a formal request that the Board reconsider an Inmate's commutation application.

"Receipt" means the date on which the application is determined to be complete and is date stamped as received.

"Stage Two review" means a second review of a commutation application by the Board and includes a personal appearance.

"Trial Official" means the current elected judge of the court where the conviction was had, the current elected district attorney of the jurisdiction where the conviction was had, or the chief or head administrative officer of the arresting law enforcement agency.

"Victim" means any person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act.

"Victim representative" means a person who is a member of the immediate family of the Victim, including stepparents, stepbrothers, stepsisters, and stepchildren; or it means a representative that the victim chooses to speak on his or her behalf.

SUBCHAPTER 3. COMMUTATION ELIGIBLITY CRITERIA

515:15-3-1. General eligibility [AMENDED]

An Inmate in the custody of the Department of Corrections, not serving a probationary term as a result of a deferment or suspension of a sentence and not on parole, who has served, in actual custody, the shorter of five (5) years of the term or terms of imprisonment, or one-third (1/3) of the total term or terms of imprisonment, shall be eligible for commutation consideration of a sentence except for a conviction of impeachment.

SUBCHAPTER 5. COMMUTATION APPLICATION

515:15-5-1. Application for commutation [AMENDED]

(a) **Application.** The Board shall adopt an application to be used for commutation requests. The commutation application and instructions shall be posted on the Board's website at www.ok.gov/ppb. The application must be completed as specified in the instructions.
(b) **Application form.** The most current application form posted on the website must be used. Outdated application forms will be returned.
(c) **Altered applications.** Applications which have been altered in any manner will be returned with a request to submit the application on the Board approved form. An application shall be considered altered if not completed on a Board approved form or if any supplemental form or materials are used that would render the application illegible.
(d) **Submitting an application.** Completed applications may be hand-delivered or mailed to the administrative office of the Board.
(e) **Withdrawing an application.** Applications may be withdrawn through written request from the Inmate or their Legal representative. The request to withdraw an application must be hand-delivered or mailed to the administrative office by the Friday of the week prior to the Board meeting on which the application is docketed for Initial Review.

515:15-5-2. Incomplete applications [AMENDED]

(a) **Incomplete application notification.** If the application is incomplete, a notification letter will be mailed within ~~ten~~fifteen (~~10~~15) business days of the review to the Inmate.
(b) **Missing information deadline.** The Inmate will be afforded ninety (90) days from the date of the notification letter to provide the missing information. No further action by the Board will be taken on an incomplete application until the missing information is provided.
(c) **Withdrawn applications.** Applications that are withdrawn by the Inmate will be moved to inactive status.
(d) **Inactive status.** Withdrawn applications and those that remain incomplete following the 90-day deadline will be moved to inactive status and the disposition of the application will follow the Board's published Records Disposition schedule.
(e) **Return of the incomplete application.** An incomplete application will not be returned to the Inmate or Legal Representative for the Inmate. A copy of the incomplete application may be obtained through an Open Records Request prior to disposition along with payment in accordance with the published fee schedule. The application and certified documents submitted with the application may also be picked up at the Board's administrative office prior to the scheduled disposition of the records.
(f) **Illegible applications.** Inmates who have submitted an illegible application will be notified in writing along with a request that a legible or typed application be resubmitted.
(g) **Falsified applications.** Applications containing statements that are known by the applicant to be untrue, believed by the applicant to be untrue, or with the intent to avoid or obstruct the Board's ascertainment of truth, shall be denied and ineligible for reapplication, subject to the provisions of this Chapter. When the statement is immaterial to the determination regarding the excessiveness of the applicant's sentence(s), or its veracity could not have been verified with records that were accessible to the applicant, then the applicant shall be notified and afforded ninety (90) days to cure the application's deficiencies.

SUBCHAPTER 7. VICTIM NOTIFICATION PROGRAM

515:15-7-1. Victim registration [AMENDED]

(a) **Victim notification program.** The Board utilizes the Victim Notification Program to notify a registered Victim or Victim Representative of an Inmate's commutation application.
(b) **Registration.** A Victim or Victim Representative may register with the Victim Notification Program by contacting the administrative staff at 405/521-6600 to obtain a copy of the form. The form is also available on the website at www.ok.gov/PPB/~~Victim Notification Program,~~ or by contacting the Victim Witness Coordinator in the District Attorney's office in the county where the Inmate was prosecuted. A completed form can be mailed to the administrative office of the Board or emailed as per the directions on the form.
(c) **Change of address.** In order to ensure continued notifications from the Board, changes of address of the Victim or Victim Representative must be provided in writing to administrative office of the Board.

SUBCHAPTER 11. BOARD REVIEW PROCESS AND COMMUTATION APPLICATION HEARING

515:15-11-1. Application Review Process [AMENDED]

(a) **Review.** All complete and eligible commutation applications shall be set for review during a regular meeting of the Board.
(b) **Two-stage review process.** Commutation applications will be reviewed in two stages. An Initial Review of the completed application will be conducted by the Board to determine if the application warrants additional investigation and further study, ~~or~~ and a pass to Stage Two, for consideration of sentence commutation.
(c) **Initial review.** During an Initial Review, the Board reviews only the application as received. No personal appearances are allowed. The Board will vote to pass the Inmate to Stage Two for further investigation and consideration or deny the application.
(d) **Stage Two review.** During Stage Two, the Inmate will receive a personal appearance via videoconference with the Board.

515:15-11-2. Attendance [AMENDED]

Board meetings, including commutation application hearings, are open to the public, except when exclusion is allowed by law. Admittance may be limited by security regulations as well as the capacity of the meeting room. Meetings are conducted at ~~Department of Correction's facilities~~a location determined by the Board and the ~~Department of Corrections is responsible~~Board will facilitate ~~for the~~ security for the meeting which may include contracting with an appropriate agency. Questions of admittance to the facility hosting the meeting will be determined by the ~~Department of Corrections~~Board. Generally, any Victim or Victim Representative will not appear at the same time as the Inmate or their Delegates.

515:15-11-4. Trial Officials appearances and communication with the Board [AMENDED]

(a) **Trial Officials appearance.** During a Stage Two review, a portion of each meeting will be set aside for the Trial Officials to address the members of the Board for a maximum of five minutes or a reasonable time limit at the Chair's discretion, provided that the allotted time shall be equal between Trial Officials, Delegates, and Victims and/or Victim Representatives. This will occur at a separate time from the Inmate's personal appearance.
(b) **In lieu of attendance.** As an alternative option to attending, Trial Officials may provide protest or support communication to the administrative office of the Board or via email at BoardCommunications@ppb.ok.gov.
(c) **Submission deadline for written correspondence.** The deadline for submission of emails or written correspondence is the close of business on the Tuesday prior to the Board meeting on which the Stage Two review date is docketed.

515:15-11-5. Victims or Victim Representative appearances and communication with the Board [AMENDED]

(a) **Victim or Victim Representative appearances.** During a Stage Two review, a portion of each meeting will be set aside for the members of the Board to hear from and ask questions of the Victims or Victim Representatives. No more than two Victims and/or Victim Representatives per Inmate may appear and only one will be allowed to address the Board for a maximum of five (5) minutes or a reasonable time limit at the Chair's discretion, provided that the allotted time shall be equal between Trial Officials, Delegates, and Victims and/or Victim Representatives. In cases in which there are multiple Victims, the Board may hear from more than one Victim and/or Victim Representative at the discretion of the Chair and within the time constraints of the meeting.
(b) **Confirmation number.** In order to speak before the Board, a Victim or Victim Representative must obtain a confirmation number from the Board's administrative office. The deadline to obtain a confirmation number is 4:00 p.m. on the last full business day preceding the Board meeting at which the Board will consider the application.

(c) **Confidentiality.** Any Victim or Victim Representative that appears at the meeting and addresses the Board waives confidentiality concerning their appearance at the meeting and the statements made during the meeting. Confidentiality is maintained when written protests or support communications are provided.
(d) **In lieu of attendance.** As an alternative option to attending, a Victim or Victim Representative may provide written protest or support communication to the administrative office of the Board or via email at BoardCommunications@ppb.ok.gov.
(e) **Submission deadline for written correspondence.** The deadline for submission of emails or written correspondence is the close of business of the Board's administrative office on the Tuesday prior to the Board meeting on which the Stage Two review is docketed.

515:15-11-6. Delegate appearances and communication with the Board [AMENDED]
(a) **Delegate appearances.** During Stage Two review, Delegates will be allowed to appear along with the Inmate, either at the Board meeting location or at the video host facility on the designated day and scheduled time.
(b) **Delegate attendance.** No more than two Delegates may appear on behalf of an Inmate and only one Delegate will be allowed to address the Board for a maximum of five (5) minutes or a reasonable time limit at the Chair's discretion, provided that the allotted time shall be equal between Trial Officials, Delegates, and Victims and/or Victim Representatives.
(c) **Confirmation number.** In order to speak before the Board, a Delegate must obtain a confirmation number from the Board's administrative office. The deadline to obtain a confirmation number is by 4:00 p.m. on the Friday prior to the Board meeting.
(d) **In lieu of attendance.** As an alternative option to attending, the Delegate may provide protest or support communication to the administrative office of the Board or via email at BoardCommunications@ppb.ok.gov.
(e) **Submission of written correspondence.** The deadline for submission of emails or written correspondence is the close of business of the Board's administrative office on the Tuesday prior to the Board meeting on which the Stage Two review is scheduled.

SUBCHAPTER 15. REAPPLICATION

515:15-15-1. Reapplication after an unfavorable recommendation [AMENDED]
An ~~Applicant~~ Inmate may reapply after an unfavorable recommendation: 1) upon recommendation from the Governor; 2) if there has been a statutory change in the penalty for the crime~~;~~ since the date of denial, or, 3) three years from the last date of denial provided that after two consecutive Adverse decisions by the Board, the Board may vote to disallow reapplication for five years. After receiving a ~~favorable~~ commutation of a sentence from the Governor, an Inmate is ineligible to apply for an additional commutation on the same sentence.

[OAR Docket #24-720; filed 7-1-24]

TITLE 515. PARDON AND PAROLE BOARD
CHAPTER 20. PARDON PROCEDURES

[OAR Docket #24-721]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Pardon Eligibility Criteria
515:20-3-1. General eligibility [AMENDED]
Subchapter 5. Pardon Application
515:20-5-1. Applications for pardon [AMENDED]
515:20-5-2. Incomplete applications [AMENDED]
Subchapter 7. Pre-Pardon Investigations
515:20-7-1. Pre-pardon investigation [AMENDED]
Subchapter 9. Victim Notification
515:20-9-1. Victim registration [AMENDED]

Subchapter 13. Board Review Process and Pardon Application Hearing
515:20-13-1. Application review process [AMENDED]
515:20-13-2. Attendance [AMENDED]
515:20-13-3. Applicant attendance [AMENDED]
515:20-13-4. District Attorney appearances and communication with the Board [AMENDED]
515:20-13-5. Victim or Victim Representative appearances and communication with the Board [AMENDED]

AUTHORITY:
Oklahoma Pardon and Parole Board; Okla. Const., Art. 6, § 10; 57 O.S. § 332.2
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 8, 2023
COMMENT PERIOD:
December 1, 2023 through January 8, 2024
PUBLIC HEARING:
January 8, 2024
ADOPTION:
February 5, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 12, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
September 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:

In Subchapter 3, pardon eligibility is amended to require applicants to: (1) discharge sentences at least five years prior to application, (2) if on probation or parole during any part of previous five years, have five consecutive years of success prior to application, without supervision, or with a favorable reference from the applicant's supervising officer, or (3) be certified by the Governor as eligible for Board consideration, in accordance with 57 O.S. Section 332.2(A). Subchapter 5 is amended to reflect the current practice of providing pardon application instructions on the agency's website and on the application and providing notifications for incomplete applications. The proposed amendments in Subchapter 7 specify that the agency will verify pardon applications to ensure all eligibility criteria are satisfied and all required information is complete prior to a referral to the Department of Corrections for a Pre-Pardon Investigation. The amended language in Subchapter 9 updates a website address. Subchapter 13 is amended to reflect changes in eligibility and incorporates a policy the Board has recently implemented in meetings when considering pardon applications. Additionally, Subchapter 13 updates location and security of meetings and gives the Chair discretion to set reasonable time limits for persons

appearing before the Board. This rulemaking action is submitted as part of a package of proposed rule changes. The overarching goal is to promote fairness, transparency, efficiency, and consistency in the Pardon and Parole Board's procedures.

CONTACT PERSON:

Kyle Counts, General Counsel, Oklahoma Pardon and Parole Board, 405-521-6600, Kyle.Counts@ppb.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2024:

SUBCHAPTER 3. PARDON ELIGIBILITY CRITERIA

515:20-3-1. General eligibility [AMENDED]

A person must meet the following criteria for all convictions for which a pardon is being requested:

(1) Must have been convicted of an Oklahoma law violation, either a felony or misdemeanor, or a crime of moral turpitude involving alcohol or an illegal drug offense in an Oklahoma Municipal Court. Traffic misdemeanor convictions are NOT eligible for a pardon.

(2) Must ~~either have discharged all sentences, including supervision, or successfully completed five consecutive years of parole or probation immediately prior to application with no new offenses and, if still under supervision, a favorable recommendation from the applicant's supervising officer.~~ satisfy one of the following:

(A) Discharged all sentences, including supervision, at least five years prior to submitting the application,

(B) Successfully completed five years of parole or probation immediately prior to submitting the application, provided that if the applicant was under supervision during any part of the five years immediately prior to submitting the application, the application shall include a favorable reference from the applicant's supervising officer, or

(C) Be certified by the Governor for pardon consideration by the Board, pursuant to 57 O.S. § 332.2(A).

(3) Must have paid all fines, fees, restitution, court costs, etc. in full.

(4) Must not have any new or pending charges, unresolved detainers, warrants, tax liens, or child support arrearages.

(5) Must not currently be in jail or prison.

(6) Must not have been considered for a pardon within the previous three (3) years.

SUBCHAPTER 5. PARDON APPLICATION

515:20-5-1. Applications for pardon [AMENDED]

(a) **Application.** The Board shall adopt a pardon application to be used for pardon requests and pardons based on actual innocence. The pardon applications and instructions shall be posted on the Board's website at www.ok.gov/ppb. Applications must be completed as specified in the instructions.

(b) **Application form.** The most current application form posted on the website must be used. Outdated application forms will be returned.

(c) **Altered applications.** Applications which have been altered in any manner will be returned with a request to submit the application on the Board approved form.

(d) **Submitting an application.** Completed applications ~~may be hand-delivered or mailed to the administrative office of the Board~~shall be submitted pursuant to instructions on the application and the Board's website.

(e) **Address change.** If an Applicant has an address change at any point after submitting the application, the administrative office of the Board should be contacted via telephone, email, or in writing to provide the Applicant's new address. Applicants are responsible for maintaining current addresses with the administrative staff of the Board.

515:20-5-2. Incomplete applications [AMENDED]

(a) **Incomplete application notification.** If an application is incomplete, ~~a notification letter will be mailed to the address~~ notification shall be provided to the contact information provided by the Applicant.

(b) **Missing information deadline.** From the date of the notification letter, the Applicant will be provided a ninety (90) day deadline in which to provide the missing information. No further action by the Pardon and Parole Board will be taken on an incomplete application until the missing information is provided.
(c) **Withdrawn applications.** Applications that are withdrawn by the Applicant will be moved to inactive status.
(d) **Inactive status.** Withdrawn applications and those that remain incomplete following the 90-day deadline will be automatically moved to inactive status and the disposition of the application will follow the Board's published Records Disposition schedule.
(e) **Return of the incomplete application.** The incomplete application will not be returned to the Applicant or legal representative for the Applicant. Prior to the disposition of the records, a copy of the incomplete application and certified documents submitted with the application may be obtained through an Open Records Request, along with payment in accordance with the published fee schedule. The application and certified documents submitted with the application may also be picked up at the Board's administrative office prior to the scheduled disposition of the records.
(f) **Illegible applications.** Applicants who have submitted an illegible application will be notified in writing along with a request that a legible or typed application be resubmitted.

SUBCHAPTER 7. PRE-PARDON INVESTIGATIONS

515:20-7-1. Pre-pardon investigation [AMENDED]
(a) **Application verification.** All of the information in the pardon application must be verified to ensure that all eligibility criteria are satisfied and all required information is complete, including the information in the required attachments. The pardon application review process can last six (6) months to one year prior to placement on a docket.
(b) **Referral to the Department of Corrections**. After a pardon application is received and verified, the application is electronically forwarded and assigned to the appropriate Oklahoma Department of Correction's Probation and Parole District to perform a Pre-Pardon Investigation.
(c) **NCIC reports.** As a part of the application verification process, NCIC reports are requested and attached to the application.
(d) **Timeline.** The investigating authority is allowed up to seventy (70) days from the time that the application is assigned to complete a pre-pardon investigation and then compile a report for the Board.
(e) **Extensions.** Extensions of deadlines may be granted by the Executive Director or his/her designee when circumstances warrant.
(f) **Past-due investigations.** If a report is overdue, the appropriate investigator or Probation and Parole District office will be contacted to determine the status of the investigation.
(g) **Docketing.** Once the Pre-Pardon Investigation report is provided to the administrative office, the application will be placed on the next available docket for pardon consideration.

SUBCHAPTER 9. VICTIM NOTIFICATION

515:20-9-1. Victim registration [AMENDED]
(a) **Victim notification program.** The Board utilizes the Victim Notification Program to notify a registered Victim or Victim Representative of an Applicant's request for a pardon.
(b) **Registration.** A Victim or Victim Representative may register with the Victim Notification Program by contacting the administrative staff at 405/521-6600 to obtain a copy of the form. The form is also available on the website at www.ok.gov/PPB/~~Victim Notification Program~~, or by contacting the Victim Witness Coordinator in the District Attorney's Office in the county where the Applicant was prosecuted. A completed form can be mailed or emailed to the administrative office of the Board or emailed as per the directions on the form.
(c) **Change of address.** In order to ensure continued notifications from the Board, changes of address of the Victim or Victim Representative must be provided in writing to the administrative offices of the Board.

SUBCHAPTER 13. BOARD REVIEW PROCESS AND PARDON APPLICATION HEARING

515:20-13-1. Application review process [AMENDED]
All complete pardon applications with a complete pre-pardon investigation shall be set for review during a regular meeting of the Board. Applications for pardon consideration will be stricken from the docket at any point in the pardon process if the Applicant is arrested, charged with a new criminal offense, or incarcerated prior to Board review.

515:20-13-2. Attendance [AMENDED]

Board meetings, including pardon application hearings, are open to the public, except when exclusion is allowed by law. Admittance may be limited by security regulations as well as the capacity of the meeting room. Meetings are conducted at a location determined by the Board ~~the Department of Corrections facilities~~ and the ~~Department of Corrections is responsible for the~~ Board shall facilitate security for the meeting which may include contracting with an appropriate agency. Questions of admittance to the facility hosting the meeting will be determined by the Board~~Department of Corrections~~.

515:20-13-3. Applicant attendance [AMENDED]

An Applicant may choose to appear before the Board and speak on his/her behalf. Applicants may bring a representative with them; however, only one person will be allowed to speak to the Board regarding the reasons for requesting the pardon. The speaker will be given five (5) minutes to speak to the Board or a reasonable time limit at the Chair's discretion. The Board Members may or may not have questions for the Applicant.

515:20-13-4. District Attorney appearances and communication with the Board [AMENDED]

(a) **District Attorney appearance.** A portion of each meeting will be set aside for the members of the Board to hear from and ask questions of the District Attorneys and other law enforcement personnel. This will occur at a separate time from the Applicant's Applicant's personal appearance, if applicable.

(b) **Confirmation Number.** In order to speak before the Board, District Attorneys or designees, and other law enforcement personnel must obtain a confirmation number from the administrative office. The deadline to obtain a confirmation number is 4:00 p.m. on the last full business day preceding the Board meeting at which the Board will consider the application.

(c) **In lieu of attendance.** In lieu of attending in person, District Attorneys or designees, and other law enforcement personnel may provide written correspondence via email to BoardCommunications@ppb.ok.gov or mail it to the administrative office of the Board.

(d) **Submission deadline for written correspondence.** The deadline for receipt of written correspondence is by the close of business on the Tuesday preceding a Board meeting.

515:20-13-5. Victim or Victim Representative appearances and communication with the Board [AMENDED]

(a) **Victim or Victim Representative appearances.** A portion of each meeting will be set aside for the members of the Board to hear from and ask questions of the Victim or Victim Representative. No more than two Victims and/or Victim Representatives may appear and only one will be allowed to address the Board for a maximum of five (5) minutes or a reasonable time limit at the Chair's discretion, provided that the allotted time shall be equal between Trial Officials, Delegates, and Victims and/or Victim Representatives. In cases in which there are multiple Victims, the Board may hear from more than one Victim and/or Victim Representative at the discretion of the Chair and with within the time constraints of the meeting.

(b) **Confirmation number.** In order to speak before the Board, a Victim or Victim Representative must obtain a confirmation number from the Board's administrative office. The deadline to obtain a confirmation number is 4:00 p.m. on the last full business day preceding the Board meeting at which the Board will consider the application.

(c) **Confidentiality.** Any Victim or Victim Representative that appears at the meeting and addresses the Board waives confidentiality concerning their appearance at the meeting and the statements made during the meeting. Confidentiality is maintained when written protests or support communication are provided.

(d) **In lieu of attendance.** As an option to attending, a Victim or Victim Representative may provide written protest or support communication to the administrative office of the Board or via email at BoardCommunications@ppb.ok.gov.

(e) **Submission deadline for written correspondence.** The deadline for submission of emails or written correspondence is by the close of business of the administrative office of the Board on the Tuesday prior to the Board meeting on which the application is docketed.

[OAR Docket #24-721; filed 7-1-24]

TITLE 515. PARDON AND PAROLE BOARD
CHAPTER 25. PAROLE PROCEDURES

[OAR Docket #24-722]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Victim Notification Program
515:25-5-1. Victim registration [AMENDED]
Subchapter 13. Revocation [NEW]
515:25-13-1. Parole revocation [NEW]
515:25-13-2. Executive parole revocation hearing [NEW]
515:25-13-3. Parole revocation recommendation [NEW]
515:25-13-4. Hearing summary [NEW]
515:25-13-5. Parole revocation certificate [NEW]
AUTHORITY:
Oklahoma Pardon and Parole Board; Okla. Const., Art. 6, § 10; 57 O.S. § 332.2
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 8, 2023
COMMENT PERIOD:
December 1, 2023 through January 8, 2024
PUBLIC HEARING:
January 8, 2024
ADOPTION:
February 5, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 12, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
September 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amended language in Subchapter 5 updates a website address. New Sections in Subchapter 13 establish revocation proceeding rules to reflect current practice. This rulemaking action is submitted as part of a package of proposed rule changes. The overarching goal is to promote fairness, transparency, efficiency, and consistency in the Pardon and Parole Board's procedures.
CONTACT PERSON:
Kyle Counts, General Counsel, Oklahoma Pardon and Parole Board, 405-521-6600, Kyle.Counts@ppb.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 11, 2024:

SUBCHAPTER 5. VICTIM NOTIFICATION PROGRAM

515:25-5-1. Victim registration [AMENDED]

(a) **Victim notification program.** The Board utilizes the Victim Notification Program to notify a registered Victim or Victim Representative of an Inmate's commutation application.

(b) **Registration.** A Victim or Victim Representative may register with the Victim Notification Program by contacting the administrative staff at 405/521-6600 to obtain a copy of the form. The form is also available on the website at www.ok.gov/PPB/~~Victim Notification Program~~, or by contacting the Victim Witness Coordinator in the District Attorney's office in the county where the Inmate was prosecuted. A completed form can be mailed to the administrative office of the Board or emailed as per the directions on the form.

(c) **Change of address.** In order to ensure continued notifications from the Board, changes of address of the Victim or Victim Representative must be provided in writing to administrative office of the Board.

SUBCHAPTER 13. REVOCATION [NEW]

515:25-13-1. Parole revocation [NEW]

(a) **Executive parole revocation hearing.** The Executive Parole Revocation Hearing for each parolee is conducted when the parolee has been charged with violating the rules and conditions of parole, including any special rules and conditions. After a finding of probable cause by the Department of Corrections (DOC) pursuant to a Probable Cause Hearing, the parolee shall be given an opportunity to have an Executive Revocation Hearing. The parolee may choose to waive the hearing

(b) **Hearing officer.** The Hearing Officer for each Executive Parole Revocation Hearing is assigned by the Executive Director of the Pardon and Parole Board.

(c) **Appointment of counsel for parolee.** Parolees may be represented by an attorney during the parole revocation process. Should a parolee make a request that counsel be appointed, the Hearing Officer will decide whether to appoint counsel, based on the offender's ability to understand and present the case.

515:25-13-2. Executive parole revocation hearing [NEW]

(a) **Hearing procedure.** The Hearing Officer presides over the proceedings and make a fair and impartial disposition based upon findings of fact.

(1) The facts shall be presented to and determined by the assigned Hearing Officer, unless the Hearing is waived by the parolee. If the Executive Parole Revocation Hearing is waived, the facts shall be determined by the Hearing Officer after a fair and impartial review of the written information submitted to the Hearing Officer by the DOC and the parolee.

(2) Witnesses shall be screened to determine who may be subject to sequestration. All non-party witnesses may be subject to sequestration.

(3) For Executive Parole Revocation Hearings that are conducted via video conference, the participants may appear at the video location or in person at the discretion of the Hearing Officer, provided that the parolee shall appear at the location determined by the DOC.

(4) The hearing shall be conducted in accordance with the due process requirements of law.

(b) **Evidence.** The Hearing Officer shall screen all evidence for its material value to the issues of the hearing.

(1) Rules of Evidence followed in the Oklahoma Courts shall not be applicable. However, the evidence relied upon must be material and relevant to the issues at hand. Direct and verified evidence shall be given the greatest weight in deciding issues in a particular case.

(2) Hearsay evidence is admissible and will be considered in light of its reliability, relevancy, necessity, and probative value.

(3) Evidence is relevant if it has a tendency to prove or disprove any disputed fact at issue.

(4) The Hearing Officer may take official notice of any fact that the courts may judicially notice and of those matters within the Hearing Officer's particular expertise, including the policies and procedures related to parole.

515:25-13-3. Parole revocation recommendation [NEW]

Whether a hearing is held or waived, a parole revocation recommendation may be prepared to reinstate parole, or revoke a parole in its entirety, partially, or to revoke the parolee to time served if DOC proves by a preponderance of the evidence that the allegations regarding parole violation are true and that revocation is warranted under the circumstances. The recommendation shall also include whether the offender receives credit for his or her time on parole, pursuant to 57 O.S. § 350, and whether the time revoked is to be served concurrently or consecutively with any new law violations.

515:25-13-4. Hearing summary [NEW]

After a hearing is held, the Hearing Officer will prepare a written summary including a recommendation as to whether the parolee's parole should be revoked. The written summary, along with the evidence submitted will be distributed to the Governor, the parolee and the Department of Corrections.

515:25-13-5. Parole revocation certificate [NEW]

Following the preparation of the recommendation and hearing summary, the Hearing Officer shall prepare a draft Certificate of Parole Revocation or Reinstatement. The proposed Certificate is forwarded to the Office of the Governor for further action. The proposed Certificate is considered a working draft copy and can be modified by the Office of the Governor. The Governor makes the final determination on the parolee's revocation and files the certificate of revocation with the Secretary of State.

[OAR Docket #24-722; filed 7-1-24]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 1. ADMINISTRIVE OPERATIONS

[OAR Docket #24-750]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 14. Scheduled or Controlled Dangerous Substances Classifications or Exclusions
535:1-14-3. Procedure [AMENDED]
535:1-14-4. Exclusion of Rx Only products not federally scheduled from Oklahoma Controlled dangerous substances scheduling [AMENDED]
AUTHORITY:
Oklahoma State Board of Pharmacy; Title 59 O.S., Sec. 353.3, 353.5 - 353.7, 353.9, 353.11 - 353.20.1, 353.22, 353.24 – 354, 375.1-375.5; Title 75 O.S., Section 302, 305, 307, and 309; Title 63 O.S., Sec 2-201, 2-208 and 2-210; and Title 51 Sec. 24 A.5 (3)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 1, 2023
COMMENT PERIOD:
December 22, 2023 through January 22, 2024
PUBLIC HEARING:
January 24, 2024
ADOPTION:
January 24, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 25, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:

June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The revision in 535:1-14-3 corrects a cite from 535:1-13-1 to 535:1-8-1. The revision in 535:1-14-4 removes the (a) from the implied (a) to correct formatting as require by the Administrative Rules on Rulemaking (ARR).
CONTACT PERSON:
Marty Hendrick, 2920 N Lincoln Blvd., Ste A, Oklahoma City, OK 73105, 405-521-3815, mhendrick@pharmacy.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 14. SCHEDULED OR CONTROLLED DANGEROUS SUBSTANCES CLASSIFICATIONS OR EXCLUSIONS

535:1-14-3. Procedure [AMENDED]
The procedure for interested persons to request the consideration of scheduling or exclusion from scheduling of any Rx Only drug shall be the same as that defined in 535:1-8-1 ~~535:1-13-1~~ for rule revision requests.

535:1-14-4. Exclusion of Rx Only products not federally scheduled from Oklahoma Controlled dangerous substances scheduling [AMENDED]
~~(a)~~ "RX Only" products listed in this section shall be excluded from Oklahoma scheduling of controlled dangerous substances as long as they maintain, under the Federal Food Drug and Cosmetic Act and the Drug Enforcement Administration Act, an exemption from federal scheduling.

[OAR Docket #24-750; filed 7-5-24]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 10. PHARMACISTS; AND INTERNS, PRECEPTORS AND TRAINING AREAS

[OAR Docket #24-751]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Interns, Preceptors and Training Areas

535:10-5-3. Intern requirements; licenses [AMENDED]
Subchapter 7. Pharmacist Licensure
535:10-7-2. Definitions [AMENDED]
535:10-7-8. Foreign pharmacy graduate licensure applicants [AMENDED]
Subchapter 9. Pharmaceutical Care
535:10-9-15. ~~Naloxone~~Opioid Antagonist [AMENDED]
Subchapter 11. Pharmacist Administration of Immunizations
535:10-11-3. D.Ph. administered immunization, training and CE requirements [AMENDED]
535:10-11-4. Immunization registration [AMENDED]

AUTHORITY:
Oklahoma State Board of Pharmacy; Title 59 O.S., Sec. 353.7, 353.9, 353.11, 353.16A, 353.18, 353.20, 353.22, 353.24 - 353.26, 353.30 and 364, Title 59 O.S. Sec. 6002 and Title 63 O.S. Section 2-312.25.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 1, 2023

COMMENT PERIOD:
December 22, 2023 through January 22, 2024

PUBLIC HEARING:
January 24, 2024

ADOPTION:
January 24, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 25, 2024

LEGISLATIVE APPROVAL:
N/A

LEGISLATIVE DISAPPROVAL:
N/A

APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024

EFFECTIVE:
August 11, 2024

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:
N/A

GUBERNATORIAL APPROVAL:
N/A

REGISTER PUBLICATION:
N/A

DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:
N/A

INCORPORATING RULES:
N/A

AVAILABILITY:
N/A

GIST/ANALYSIS:
The revisions in 535:10-5-3. Adds descriptions of when a graduate is eligible for an intern license and describes the length of time for a graduate intern license. The revisions in 535:10-7.2 and the revision in 535:10-7-8 make changes for the changes in the NABP foreign graduate certification process for licensure in Oklahoma. The revision in 535:10-9-15 make changes in the rule for opioid antagonists to comply with the changes in Title 63 OS 2-312.2. The revisions in 535:10-11-3 (c) adds "or Board approved" continuing education. Section 535:10-11-4. Training and CE requirements were simplified and added to 535:10-11-3 last year. We are corrected the cites in 535:10-11-4 from 535:10-11-5 where the immunization training rules were before to their new location of 535:10-11-3.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 5. INTERNS, PRECEPTORS AND TRAINING AREAS

535:10-5-3. Intern requirements; licenses [AMENDED]

A licensed intern shall be defined as a student having completed fifty (50) college hours of credit, with an overall average of not less than "C", currently enrolled and attending classes and in good standing in an accredited college of pharmacy in a Doctor of Pharmacy program, or a graduate of an accredited college of pharmacy not otherwise eligible for licensure as an intern or pharmacist, except as provided in 535:10-7-8.

(1) The Board shall be notified by the Pharmacy Colleges in Oklahoma

(A) when a student is not continuously enrolled in a college of pharmacy in an accredited Pharmacy program; or,

(B) when a pharmacy student is not in good standing - or when a pharmacy student's overall grade point average is less than "C";

(C) Then an intern license or registration is automatically void and the intern shall return such license to the Board.

(2) Such intern may apply for a new intern license when the Board is notified by the college of pharmacy that the applicant is in good standing in a Doctor of Pharmacy program and actively attending classes provided the provisions of these regulations have not been violated by the intern.

(3) An intern shall notify the Board when requesting the transfer of intern hours to another state of any intent not to return to Oklahoma; or, within ten (10) days of becoming licensed as a pharmacist in another state.

(4) An intern certificate becomes void five (5) years after date of issuance or at such other date as set by the Board.

(5) A graduate intern must license as such when;

(A) The intern has graduated from an ACPE College, or School of Pharmacy and their Oklahoma original intern license has expired, and the intern needs to continue working as an intern while preparing to take the exam(s).

(B) The applicant is transferring from another state and needs to work in Oklahoma as an intern prior to completing the Oklahoma licensure process.

(6) The graduate intern license becomes void after two years from the date of issuance or when the graduate intern becomes licensed as a pharmacist.

SUBCHAPTER 7. PHARMACIST LICENSURE

535:10-7-2. Definitions [AMENDED]

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

"FPGEC Certification ~~Certificate~~" means the NABP Foreign Pharmacy Graduate Examination Committee Certification ~~Certificate~~ indicating the foreign pharmacy graduate has passed the Foreign Pharmacy Graduate Equivalency Examination and the Test of English as a Foreign Language at a minimum.

"Foreign Pharmacy Graduate" means a pharmacist whose undergraduate pharmacy degree was conferred by a school or college of pharmacy not approved by the Board.

"Foreign Pharmacy Graduate Applicant" means a foreign pharmacy graduate who has received a FPGEC certification ~~certificate~~ from NABP.

"NABP" means the National Association of Boards of Pharmacy.

"NAPLEX" means the North American Pharmacist Licensure Examination.

"Reciprocity" means the process through NABP by which a registered pharmacist can obtain licensure in Oklahoma (after graduation from an accredited school or college of pharmacy approved by the Board) based on his pharmacist license in a participating state with like requirements.

"Score Transfer" means the process by which applicants can sit for the NAPLEX in one state (after graduation from an accredited school or college of pharmacy approved by the Board) and transfer their score to another participating state through NABP.

535:10-7-8. Foreign pharmacy graduate licensure applicants [AMENDED]

(a) Foreign pharmacy graduate applicants shall meet the requirements set forth in 535:10-7-4, 535:25 and this Subchapter and Title.

(b) Foreign pharmacy graduate applicants, as defined in 535:10-7-2 shall:

(1) ~~First, submit a copy of applicant's valid NABP FPGEC Certificate to the Board;~~

~~(2) second, apply~~Apply and be approved for an Oklahoma intern certificate as required by 535:10-5-2; and,

~~(3) third, complete~~(2) Complete 1000 hours of internship in Oklahoma within 12 months of licensure as an Oklahoma intern.

(A) The ~~foreign pharmacy graduate intern and the~~Oklahoma licensed pharmacist preceptor shall satisfactorily report these hours on forms supplied by the Board.

(B) The foreign pharmacy graduate intern is subject to all Board rules.

(c) Upon satisfactorily completing the requirements of this section, a foreign pharmacy graduate may make application for the NAPLEX (licensure by examination) as set forth in 535:10-7-5.

(d) Foreign pharmacy graduate ~~graduates~~ applicants may apply for licensure by reciprocity once they have met the following:

(1) Successfully complete the NABP FPGEC certification ~~certificate, and submit a copy to the Board~~;

(2) Have passed the NAPLEX Examination; and,

(3) Meet the requirements in 535:10-7-6.

SUBCHAPTER 9. PHARMACEUTICAL CARE

535:10-9-15. ~~Naloxone~~Opioid Antagonist [AMENDED]

(a) The purpose of this subsection is to implement Title 63 O.S. 2-312.2 provisions for pharmacists.

(b) Definitions. The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise: **"OpioidAntagonist"** means a drug that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors.

(c) A Pharmacist may prescribe and dispense ~~Naloxone~~an Opioid Antagonist that is approved by the FDA without a protocol or prescription to any person at risk of experiencing an opioid-related drug overdose, family or friend of an at-risk person, or first responder. Such Opioid Antagonist ~~Naloxone~~ may only be dispensed by, or under the supervision of, a licensed pharmacist.

SUBCHAPTER 11. PHARMACIST ADMINISTRATION OF IMMUNIZATIONS

535:10-11-3. D.Ph. administered immunization, training and CE requirements [AMENDED]

(a) A D.Ph. must have completed an approved **Accreditation Council for Pharmacy Education**(ACPE) training course and received registration for immunizations with the Board as stated in 535:10-11-4 prior to administering immunizations.

(b) The Board will maintain a register of those pharmacists who have been approved to administer immunizations.

(c) A D.Ph. with immunization registration must maintain ongoing competency through required training, including at a minimum current CPR certification and 1 hour of immunization related ACPE accredited, or Board approved continuing education annually.

535:10-11-4. Immunization registration [AMENDED]

(a) In order to obtain and maintain eligibility to administer immunizations an applicant must be licensed as a pharmacist in Oklahoma and have successfully completed an approved training described in ~~535:10-11-5~~535:10-11-3.

(b) Each D.Ph. immunization applicant is subject to the rules regarding applicants in Subchapter 535:25-3.

(c) Prior to administering immunizations, each D.Ph. shall obtain an immunization permit with the Board.

(1) Such D.Ph. shall apply obtain an immunization permit by completing an application form furnished by the Board and paying the $25 fee.

(2) The immunization permit must be displayed in the pharmacy where the D.Ph. is performing immunizations.

(3) Duplicate immunization permits are available with duplicate application and fee.

(d) An Oklahoma licensed intern who has successfully completed an approved immunization training program described in ~~535:10-11-5~~535:10-11-3, while working under an Oklahoma licensed pharmacist preceptor with an immunization registration, shall be exempt from immunization registration. Such intern shall provide proof of such successfully completed immunization training program upon request of the Board.

[OAR Docket #24-751; filed 7-5-24]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 15. PHARMACIES

[OAR Docket #24-752]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Pharmacies
535:15-3-2. Pharmacy responsibilities [AMENDED]
Subchapter 4. Remote Medication Order Processing (RMOP) and RMOP Pharmacy for Hospital Pharmacies
535:15-4-2. Definitions [AMENDED]
535:15-4-5. Responsibilities and duties of RMOP pharmacies and pharmacy manager [pharmacist in charge (PIC's)] [AMENDED]
Subchapter 5. Hospital Pharmacies
535:15-5-2. Definitions [AMENDED]
535:15-5-9. Hospital pharmacy physical requirements [AMENDED]
535:15-5-19. Remote medication order processing (RMOP) [AMENDED]
Subchapter 6. Hospital Drug Room
535:15-6-2. Definitions [AMENDED]
535:15-6-6. Physical requirements [AMENDED]
535:15-6-9. Emergency room pre-packaged medications formulary [AMENDED]
535:15-6-20. Remote medication order processing [AMENDED]
Subchapter 7. Drug Supplier Permits
535:15-7-2. Drug supplier requirements [AMENDED]
Subchapter 10. Good Compounding Practices
Part 1. GOOD COMPOUNDING PRACTICES FOR NON-STERILE PREPARATIONS
535:15-10-1.1. Preparation of compounded drug products for over-the-counter (OTC) sale [NEW]
AUTHORITY:
Oklahoma State Board of Pharmacy; Title 59 O.S., Sec. 353.7, 353.11 - 353.20.1, 353.22, 353.24 - 353.26 - 354, and 367.8.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 1, 2023
COMMENT PERIOD:
December 22, 2023 through January 22, 2024
PUBLIC HEARING:
January 24, 2024
ADOPTION:
January 24, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 25, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:

June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The revision in 535:15-3.2 (j) implied (1) is renumbered to (1), (2) is added describing a change in the pharmacist in charge (PIC) report is required to the Board within ten days (10 days), (3) is added requiring pharmacies that are closing for lack of staffing or other reasons where the pharmacy will not be open during their normal business hours to report to the Board; and describes what must be included in this report. In 535:15-4-2. the 'Remote medication order processing' and the 'remote medication order processing pharmacy' definitions are changed. For both 535:15-4-5 (1) (G) and 535:15-4-5 (2) (B) the cites are corrected from 535:15-5-9 (1) (B) and (l) (C) to 535:15-5-9.1. In 535:15-5-2. the Remote medication order processing definition in changed. 535:15-5-9. Implied (a) (6) Security adds (A) to the implied (A) and adds (B) requiring electronic alarm and video recording system to protect against theft and diversion. Revised in 535:15-5-19 (d) the cites are corrected from 535:15-5-9 (1) (B) and (l) (C) to 535:15-5-9.1. In 535:15-6-2. the Remote medication order processing definition in changed. Revised in 535:15-6-2 implied (a) the word insure is corrected to ensure. In 535:15-6-2 (a) (2) (A) ', 1 through 5' is deleted. 535:15-6-2 (a) (6) Security adds (A) to the implied (A) and 2 adds (B) requiring electronic alarm and video recording system to protect against theft and diversion. The revision in 535:15-6-9 (b) (9) will allow up to three types of Asthma medication per ER formulary. The revision in 535:15-6-20 (d) the cites are corrected from 535:15-5-9 (1) (B) and (l) (C) to 535:15-5-9.1. Revised 535:15-7-2 (c) adds "name and address of supplier" and "lot number and expiration date of drug". New 535:15-10-1.1 are rules for pharmacist preparation of compounded drug products in the pharmacy for over-the counter (OTC) sale to implement new legislation.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. PHARMACIES

535:15-3-2. Pharmacy responsibilities [AMENDED]
(a) **Pharmacy staffing responsibility.** Each pharmacy shall employ an adequate number of pharmacists to perform the practice of pharmacy as defined by the Oklahoma Pharmacy Act with reasonable safety.
(b) **PIC.** Each pharmacy, in order to obtain and maintain a pharmacy license, must have a licensed pharmacist as the PIC.
(1) A PIC is designated by his signature on the original pharmacy application or by the appropriate notification to the Board as required in 535:15-3-10 (a), and is responsible for all aspects of the operation related to the practice of pharmacy. These responsibilities include, but are not limited to the:
(A) Supervision of all employees as they relate to the practice of pharmacy;
(B) Establishment of policies and procedures for safekeeping of pharmaceuticals that satisfy Board requirements, including security provisions when the pharmacy is closed;

(C) Proper record keeping system for the purchase, sale, delivery, possession, storage, and safekeeping of drugs;
(D) Proper display of all licenses;
(E) Annual controlled drug inventory; and,
(F) Maintenance of prescription files;

(2) Failure of the pharmacy to have a PIC who fulfills these responsibilities is a violation of this code by both the pharmacy and PIC.

(3) No pharmacist may serve as a PIC in more than one pharmacy at a time. This requirement shall not apply to charitable pharmacies or hospital drug rooms.

(4) The PIC shall be present and practicing at the pharmacy for which he holds the PIC position no less than 20 hours per week during the pharmacy's ordinary course of business. In the event the pharmacy's normal hours of business are less than 40 hours per week the PIC shall be present and practicing at least 50 percent of the normal business hours.

(5) A PIC shall work sufficient hours in the pharmacy to exercise control and meet the responsibilities of the PIC.

(c) **PIC's and pharmacy's responsibilities.** The following describe responsibilities of the pharmacy and PIC.

(1) Where the actual identity of the filler of a prescription is not determinable, the PIC and the pharmacy where the prescription was filled will be the subject of any charges filed by the Board.

(2) The pharmacy and the PIC are responsible to establish and maintain effective controls against prescription errors.

(3) The pharmacy and/or PIC shall notify the Board immediately by certified mail of the separation of employment of any pharmacist, pharmacy intern, or pharmacy technician for any suspected or confirmed drug or pharmacy related violation. If the PIC is terminated for such reason, the owner or other person in charge of the pharmacy shall notify the Board by certified mail.

(4) The pharmacy, pharmacist, and/or PIC shall establish and maintain effective controls against the diversion of prescription drugs into other than legitimate medical, scientific, or industrial channels as provided by federal, state or local laws or rules.

(5) The pharmacy, pharmacist and PIC are responsible for supervision of all employees as they relate to the practice of pharmacy.

(d) **Responsibility for automated pharmacy systems.** This subsection describes the responsibilities of the pharmacy and the PIC for automated pharmacy systems.

(1) Prior written notice must be provided to the Board of the installation or removal of automated pharmacy systems. Such notice must include, but is not limited to the:
(A) Name and address of the pharmacy,
(B) Name of PIC,
(C) Name of the manufacturer & model of system.

(2) The system being implemented should conform to Board automated pharmacy system guidelines.

(3) The pharmacy shall monitor the automated pharmacy system with a quality assurance program.

(4) The pharmacy, pharmacist, and/or PIC shall establish and maintain effective controls against the diversion of prescription drugs into other than legitimate medical, scientific, or industrial channels as provided by federal, state or local laws or rules.

(5) The pharmacy, pharmacist and PIC are responsible for supervision of all employees as they relate to the practice of pharmacy regarding automation.

(e) **Responsibilities for personnel identification.** The PIC and the pharmacy are responsible to assure that the public is able to distinguish pharmacy technicians, auxiliary support personnel, and/or interns from any pharmacist in the pharmacy.

(1) All pharmacy technicians, auxiliary support personnel, and/or interns must wear a designation tag and be distinctly identifiable from a practicing pharmacist.

(2) Designation tags must be clear, readable and lettered with "Rx Tech", "Tech", "Clerk", or "Intern".

(3) All pharmacy interns, technicians or clerks must identify themselves as such on any phone calls initiated or received while performing pharmacy functions.

(f) **Written drug diversion detection and prevention.** The pharmacy, pharmacist, and/or PIC shall implement and follow a written drug diversion detection policy. The policy shall be available for Board review.

(g) **Inspections.** Pharmacies are subject to inspection. The Board and/or its authorized representatives may conduct on-site periodic routine inspections and investigations during reasonable business hours.

(h) **Remodel.** The pharmacy and the PIC are responsible to notify the Board in writing in advance of any remodel in the pharmacy that would result in a change in square footage or additional storage areas. Such pharmacy shall be subject to inspection by the Board and shall be required to pay and inspection fee.
(i) **Closing of a Pharmacy.** The pharmacy and the PIC are responsible to notify the Board in writing within ten (10) days of closing a pharmacy. The notification shall include, but not be limited to:

(1) Date of closing
(2) Copy of final CDS inventory,
(3) Disposition of pharmacy records,
(4) Disposition of prescription drugs, and
(5) Return of pharmacy license.

(j) **Reporting.**

(1) The pharmacy and the PIC shall report any theft or significant loss of any drugs to the Board within one day of discovery. The pharmacy and the PIC must complete and submit a DEA 106 form for any theft or significant loss of controlled substances to DEA within the required time. A copy shall be sent to the Board within fourteen (14) days of the filing of the DEA Form 106.
(2) A change in PIC must be reported to the Board in writing within ten (10) days,
(3) A pharmacy that is closing due to lack of staffing or for some other reason and will not be open during normal business hours when patients would expect the pharmacy to be open must email the following information to the Board within twenty-four (24) hours.

(A) License number of the pharmacy.
(B) Name of the pharmacy.
(C) Address of the pharmacy.
(D) Name of the pharmacist in charge (PIC).
(E) Date(s) that the pharmacy will be closed.
(F) Hours the pharmacy will be closed.
(G) Detailed explanation for closing.

SUBCHAPTER 4. REMOTE MEDICATION ORDER PROCESSING (RMOP) AND RMOP PHARMACY FOR HOSPITAL PHARMACIES

535:15-4-2. Definitions [AMENDED]

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

"Contract employee" means any person who performs services for a hospital, and whose compensation may or may not be reflected on the payroll records of a hospital, hospital pharmacy, or remote medication order processing pharmacy.

"Remote medication order processing" or **"RMOP"** means the processing of a medication order for a hospital facility by a pharmacist employed by ~~located in~~ a remote medication order processing pharmacy site. Remote medication order processing does not include the dispensing of a drug, but may include receiving, interpreting, evaluating, clarifying and approval of medication orders. Additionally, remote medication order processing may include order entry, other data entry, performing prospective drug utilization review, interpreting clinical data, performing therapeutic interventions, and providing drug information services, and authorizing release of the medication for administration.

"Remote medication order processing pharmacy" means a pharmacy which does not stock, own, or dispense any prescription medications, and whose sole business consists of entry and/or review and/or verification of physician's ~~physicians~~ orders and consulting services under contract for hospitals licensed in Oklahoma or any other state; and which provide services under the direction of a pharmacist in charge or PIC, licensed by the Board.

"Remote pharmacist" means any person licensed to practice pharmacy by the Board, either employed or a contract employee of a hospital, hospital pharmacy, or remote medication order processing pharmacy, processing the medication order from a remote site.

"Remote site" means a site located within the continental United States (US) or District of Columbia (DC) that is electronically linked to the hospital via a computer and/or other electronic communications system as defined in the operations, policies and procedures manual of a hospital pharmacy, hospital drug room or remote medication order processing pharmacy for the purposes of remote medication order processing.

535:15-4-5. Responsibilities and duties of RMOP pharmacies and pharmacy manager [pharmacist in charge (PIC's)] [AMENDED]

Responsibilities of the PIC and the remote medication order processing pharmacy include:

(1) **Written policies and procedures and operation manuals**. The remote medication order processing pharmacy and PIC shall establish a written policy and procedure manual for the RMOP operation, including but not limited to:

(A) Complying with federal and state laws and regulations;

(B) Establish and maintain minimum technical standards and specifications, e.g., RMOP processes, passwords, encryption and firewalls;

(C) Establish and maintain procedures for handling computer system or connectivity downtime;

(D) Establish and maintain confidentiality, privacy, and security to meet HIPAA standards;

(E) Establish and maintain pharmacist training, orientation and competencies;

(F) Establish and maintain workload balancing and staffing levels e.g., when will RMOP be triggered and how will workload or staff balancing be done;

(G) Establish and maintain access to either hard-copy or online references as described in ~~535:15- 5-9 (1) (B) and 535:15-5-9 (1) (C)~~ 535:15-5-9.1;

(H) Establish and maintain hospital staff training and orientation to the remote medication order process;

(I) Establish and maintain a process that documents issues or problems which includes issue escalation and problem resolution to resolve such;

(J) Establish and maintain on-call assistance and communication between the hospital and remote site personnel;

(K) Establish and maintain internal quality assurance and medication error reporting systems;

(L) Clarification of medication orders;

(M)Establish and maintain access to Hospital policy resources, policies and procedures;

(N) Establish and maintain records and reports; and,

(O) Establish and maintain annual review of the remote medication order processing and documentation.

(2) **General responsibility**. The remote medication order processing pharmacy and PIC shall be responsible for the provision of services to the hospital(s), including but not limited to establishing and maintaining:

(A) Establishing and scheduling appropriate RMOP pharmacy staffing levels;

(B) Performance of RMOP duties which include establishing and maintaining:

(i) Review of the patient's profile;

(ii) Clarification of medication orders;

(iii) Reporting of potential drug interactions or allergies;

(iv) Order entry and/or order review;

(v) Monitoring of clinical information, lab values, or dosing issues; and

(vi) Provision of drug information to the pharmacist(s) performing remote medication order entry, by establishing and maintaining access to either hard-copy or online references as described in ~~535:15-5-9(1)(B) and 535:15-5-9(1)(C)~~ 535:15-5-9.1;

(C) Submitting required reports, required by hospital, by procedures manual and by law or rule;

(D) Quality assurance and performance improvement of the RMOP service;

(3) **Confidentiality**. The remote medication order processing pharmacy and PIC shall have responsibility for establishing policies and procedures for the security and integrity of any patient information, confidential and non-confidential and must abide by all applicable state and federal laws and rules. In addition, the following must be met:

(A) Pharmacists performing remote medication order processing entry must adhere to the hospital's confidentiality policy and are responsible for ensuring the confidentiality of patient information as described in 535:10-3-1.1(6) and 535:10-3-1.2(a)(16); and,

(B) The hospital shall insure that the remote pharmacist shall have individual pharmacist specific secure electronic access to the hospital pharmacy's patient information system and to other electronic systems that the on-site pharmacist has access to when the hospital pharmacy is open.

(4) **Record keeping**.

(A) The remote medication order processing pharmacy shall ensure that records of any and all orders processed for the hospital are maintained for a minimum of two (2) years, and such records shall be readily available for inspection, copying by, or production of upon request by the Board, its designee, or a representative of the Board upon request, including, but not limited to:

(i) Medication orders reviewed or verified by the remote pharmacist;

(ii) Interventions communicated by the remote pharmacist;

(iii) Requests for clinical or other additional information communicated by the remote pharmacist;

(iv) Name or other unique identifier of the remote pharmacist involved in the processing of the RMOP order.

(B) The records required in Section 535:15-4-5(4)(A) above may be kept at either the remote medication order processing pharmacy or the hospital so long as the records are maintained and readily available.

(C) A hospital utilizing a remote pharmacist shall maintain a record of the name and address of such pharmacist(s), evidence of current pharmacist licensure in Oklahoma, and the address of each location where records of any and all orders processed for the hospital will be maintained.

SUBCHAPTER 5. HOSPITAL PHARMACIES

535:15-5-2. Definitions [AMENDED]

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

"Automated dispensing systems" means a mechanical system controlled by a computer that perform operations or activities, relative to the storage, packaging, compounding, labeling, dispensing, administration, or distribution of medications, and which collects, controls, and maintains all transaction information.

"Auxiliary supportive personnel" or **"auxiliary supportive person"** means all persons, other than pharmacists, interns and techs, who are regularly paid employees of the hospital pharmacy and who work or perform tasks in the hospital pharmacy that do not require a permit or license (e.g. clerk, typist, delivery, or data entry person, etc.).

"Certified medication order" means a filled prescription that has been reviewed and certified by a pharmacist.

"Director of Pharmacy" means a pharmacist licensed to engage in the practice of pharmacy in Oklahoma who is thoroughly familiar with the specialized functions of a hospital pharmacy and directs the activities of a hospital pharmacy.

"Drug room" means a secured room where drug inventories are maintained for use in a facility licensed and regulated by the Oklahoma Health Department, and which may be inspected by the Board.

"Hospital employee" means any individual employed by a hospital whose compensation for services or labor actually performed for a hospital is reflected on the payroll records of a hospital.

"Hospital" or **"Hospital facility"** or means hospital as defined in 59 O.S. Section 353 et seq.

"Hospital pharmacy" means the place or places in which drugs, chemicals, medicines, prescriptions, or poisons are stored, controlled and prepared for distribution and administration for the use and/or benefit of patients in a hospital facility. Hospital pharmacy shall also mean the place or places in which drugs, chemicals, medicines, prescriptions or poisons are compounded and prepared for dispensing to the members of the medical staff, hospital employees, and the members of their immediate families, patients being discharged, and for other persons in emergency situations.

"Medical staff" means a prescriber who has privileges to practice in the hospital facility.

"Medication order" means a prescription as defined in Title 59 O.S. Section 353.1.

"Pharmacist" means any person licensed to practice pharmacy by the Oklahoma Board.

"Pharmacy technician", **"Tech"**, **"Technician"** or **"RxTech"** means a person who has been issued a permit by the Board to assist the pharmacist and performs nonjudgmental, technical, manipulative, nondiscretionary functions in the prescription department under the pharmacist's immediate supervision.

"**Remote medication order processing**" or "**RMOP**" means the processing of a medication order for a hospital facility by a pharmacist employed by ~~located in~~ a remote medication order processing pharmacy site. Remote medication order processing does not include the dispensing of a drug, but may include receiving, interpreting, evaluating, clarifying and approval of medication orders. Additionally, remote medication order processing may include order entry, other data entry, performing prospective drug utilization review, interpreting clinical data, performing therapeutic interventions, and providing drug information services, and authorizing release of the medication for administration.

"Remote site" means a site located within the continental United States (US) or District of Columbia (DC) that is electronically linked to the hospital via a computer and/or other electronic communications system as defined in the operations, policies and procedures manual of a hospital pharmacy for the purposes of remote medication order processing (RMOP) of a remote medication order processing pharmacy.

"Supportive personnel" means supportive personnel as defined in 59 O.S Section 353.1 et seq.

535:15-5-9. Hospital pharmacy physical requirements [AMENDED]

A hospital pharmacy shall have sufficient facilities to ensure that drugs are prepared in sanitary, well-lighted and enclosed places, and which meet the other requirements of this Chapter. The following are in addition to the equipment requirements listed in 535:15-3-4.

(1) **Equipment and materials.** Each hospital pharmacy shall have sufficient equipment and physical facilities for proper compounding, dispensing and storage of drugs.

(2) **Sterile compounds.** For sterile compounded preparations, a hospital must comply with 535:15-10 Part 3.

(3) **Storage.** All pharmaceuticals bearing a federal legend such as "RX Only" and medications administered in the hospital shall be stored in designated areas within the hospital which are sufficient to insure proper sanitation, temperature, light, ventilation, moisture control, segregation and security. The storage shall be as directed by the Director of Pharmacy and shall remain under the direct supervision of a pharmacist.

(4) **Alcohol and flammables.** Alcohol and flammables shall be stored in areas that shall, at a minimum, meet basic local building code requirements for the storage of volatiles and such other laws, ordinances or regulations as may apply.

(5) **Unattended areas.** In the absence of authorized personnel in a hospital medication area, such area shall be locked and inspected on a regular schedule of at least monthly as directed by the Director of Pharmacy.

(6) **Security.**

(A) All areas occupied by a hospital pharmacy shall be capable of being locked by key or combination to prevent access by unauthorized personnel.

(B) There shall be access control and video recording systems in place to provide protection against theft and diversion.

535:15-5-19. Remote medication order processing (RMOP) [AMENDED]

(a) Hospitals, the pharmacist manager and the director of pharmacy at the hospital that allow remote medication order processing shall establish and maintain policies and procedures related to remote medication order processing.

(1) Such registrants remain responsible to assure the hospital pharmacy meets requirements under Oklahoma laws and rules.

(2) Such registrants shall be responsible to assure RMOP, if used, is reviewed at least annually and that proper credentialing, review and that oversight is established, maintained and exercised.

(b) Prior to implementation of RMOP services, training shall be provided by the hospital, and the relevant portions of the hospital pharmacy's policy and procedure manual shall be established and maintained on RMOP; and such shall be reviewed by the Pharmacist providing RMOP entry services at least annually.

(c) All pharmacists involved in RMOP entry services are responsible for ensuring the confidentiality, privacy and security of patient health care information. At a minimum, the following conditions must be met:

(1) Pharmacists performing RMOP entry must be licensed by the Board.

(2) Pharmacists performing RMOP entry must adhere to the hospital's confidentiality policy and are responsible for ensuring the confidentiality of patient information as described in 535:10-3-1.1 (6) and 535:10-3-1.2 (a) (16).

(3) The hospital shall ensure the pharmacist performing remote medication order processing has individual, pharmacist-specific access to the hospital pharmacy's patient information system and to other electronic systems that on-site pharmacists have access to during the hours of operation of the hospital pharmacy.

(d) The hospital will make available to the pharmacist(s) performing RMOP entry, access to either hard-copy or online references as described in ~~535:15-5-9(1)(B) and 535:15-5-9(1)(C)~~535:15-5-9.1.

(e) The hospital's computer system shall have the ability to audit the activities of each pharmacist(s) remotely processing the RMOP orders.

(f) A hospital pharmacy may allow RMOP for the patient population served under the hospital's pharmacy license by a pharmacist employed by the same licensed hospital pharmacy. Remote medication order processing performed for patients served under a different hospital pharmacy licensure requires a contractual arrangement fulfilling the responsibilities as outlined in 535:15-4-5.

(g) All Pharmacists who engage in RMOP shall ensure the following minimum information technology standards and specifications are met and maintained at the remote site:

(1) Availability of internet, phone, and scan or fax access to the hospital.
(2) Ability to access the hospital facility via the hospital's information system.
(3) To the extent possible, have redundant systems in place to ensure remote medication order processing service availability (e.g. internet connectivity, other information systems used to facilitate remote medication order processing).
(4) Have secure electronic access to the hospital's patient information system and to all other electronic systems that the on-site pharmacist has access to when the pharmacy is open.
(5) Use of a computer workstation e.g. with passwords, firewalls and encryption.

(h) The record of each patient-specific RMOP drug or device order processed pursuant to this rule shall identify, by name or other unique identifier, each pharmacist involved in the review and verification of the order.
(i) Remote medication order processing by a pharmacist shall not relieve the hospital pharmacy from employing or contracting with pharmacist(s) to provide routine pharmacy services within the facility. The activities authorized by this rule are intended to supplement hospital pharmacy services when the pharmacy is closed or additional pharmacist assistance is needed and are not intended to eliminate the need for an on-site hospital pharmacy or pharmacist(s).
(j) Pharmacists performing remote medication order processing shall not be included in the ratio of the pharmacist and technician as outlined in 535:15-5-7.2.(e).
(k) A pharmacist employed by or contracting with a hospital pharmacy for on-site services may also provide remote medication order processing services when the hospital pharmacy is closed or additional pharmacist assistance is needed through a remote medication order processing pharmacy.

SUBCHAPTER 6. HOSPITAL DRUG ROOM

535:15-6-2. Definitions [AMENDED]

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

"Adverse Drug Event" or **"ADE"** means an injury from a medicine or lack of an intended medicine.

"Contract employee" means any person who performs services or labor for a hospital, and whose compensation may or may not be reflected on the payroll records of a hospital. Examples of pharmacy contract employees are consultant D.Ph., relief D.Ph. and/or volunteer D.Ph.

"Drug room" or **"Hospital drug room"** means a secured room where drug inventories are maintained for use in a hospital, with less than 100 licensed beds including bassinets, licensed and regulated by the Oklahoma Health Department and by the Oklahoma Board.

"Drug room supervisor" means an Oklahoma registered nurse, licensed practical nurse, or licensed pharmacist (D.Ph.) as described in OAC 310:667-21-2 (c).

"Pharmacist-in-Charge" or **"PIC"** means an Oklahoma licensed pharmacist director or consultant of the hospital drug room, either employed or a contract employee.

"**Remote medication order processing**" or "**RMOP**" means the processing of a medication order for a hospital facility by a pharmacist employed by ~~located in~~ a remote medication order processing pharmacy site. Remote medication order processing does not include the dispensing of a drug, but may include receiving, interpreting, evaluating, clarifying and approval of medication orders. Additionally, remote medication order processing may include order entry, other data entry, performing prospective drug utilization review, interpreting clinical data, performing therapeutic interventions, and providing drug information services, and authorizing release of the medication for administration.

"Remote site" means a site located within the continental United States or District of Columbia that is electronically linked to the hospital site via a computer for the purposes of remote medication order processing to a remote medication order processing pharmacy.

535:15-6-6. Physical requirements [AMENDED]

A hospital drug room shall have sufficient facilities to ~~insure~~ensure that drugs are prepared in sanitary, well-lighted and enclosed places, and which meet the other requirements of this Chapter.

(1) **Equipment and materials.** Each hospital drug room shall have sufficient equipment and physical facilities for proper compounding, dispensing and storage of drugs.
(2) **Sterile Compounds.** For compounded sterile preparations:
(A) If a laminar hood is used, a hospital drug room shall comply with 535:15-9-6 and 535:15-9-10~~, 1 through 5~~.

(B) If a laminar hood is not used, a closed system for parenteral admixtures should be utilized. If sterile compounding must be done, an area must be designated for that activity. This area must be at least a counter used for only this purpose and be away from patient care areas. Acceptable aseptic techniques shall be used.

(3) **Storage.** All drugs bearing a federal legend such as "RX Only" and medications administered in the hospital shall be stored in designated areas within the hospital which are sufficient to insure proper sanitation, temperature, light, ventilation, moisture control, segregation and security. The storage shall be as directed by the PIC and shall remain under the supervision of such pharmacist.

(4) **Alcohol and flammables.** Alcohol and flammables shall be stored in areas that shall, at a minimum, meet basic local building code requirements for the storage of volatiles and such other laws, ordinances or regulations as may apply.

(5) **Unattended areas.** In the absence of authorized personnel in a hospital medication area, such area shall be locked.

(6) **Security.**

(A) All areas occupied by a hospital drug room shall be capable of being locked by key or combination to prevent access by unauthorized personnel.

(B) There shall be access control and video recording systems in place to provide protection against theft and diversion.

535:15-6-9. Emergency room pre-packaged medications formulary [AMENDED]

(a) Each hospital drug room may choose the medicines to be included in their emergency room (ER) pre-packaged medications formulary within the requirements and limits listed below. This formulary shall be included within the policies and procedures of the hospital drug room. These pre-packaged medications shall be administered only as allowed in 535:15-6-8 for a maximum of a 72-hour supply.

(b) Type of Medication defined or parameters for choice **[**Limits**]**

(1) Controlled Dangerous Substances (CDS):

(A) Codeine/acetaminophen combination [one]

(B) Tramadol [one]

(C) Codeine containing antitussive preparation [one]

(2) ACE inhibitor: per ER formulary [two]

(3) Anti-nausea: per ER formulary [two]

(4) Anti-viral: per ER formulary [two]

(5) Anti-coagulant: per ER formulary [two]

(6) Antihistamine: per ER formulary [two]

(7) Anti-hypertensive: per ER formulary [three]

(8) Antimicrobial: per ER formulary [unlimited]

(9) Asthma: per ER formulary [~~one~~three]

(10) Beta blocker: per ER formulary [two]

(11) Diuretic: per ER formulary [two]

(12) Ear: antibiotic/steroid or antibiotic/ steroid/pain combination

(13) Eye: antibiotic or antibiotic/steroid combination

(14) Miscellaneous:

(A) terbutaline

(B) oral contrast media

(15) Muscle relaxant: per ER formulary [two non-CDS]

(16) Pain: per ER formulary [two non-CDS]

(17) Proton pump inhibitor per ER formulary [one]

(18) Steroid: per ER formulary [three]

535:15-6-20. Remote medication order processing [AMENDED]

(a) Hospitals, the pharmacist manager and the director of pharmacy at the hospital that allow remote medication order processing shall establish and maintain policies and procedures related to remote medication order processing.

(1) Such registrants remain responsible to assure the hospital drug room meets requirements under Oklahoma laws and rules.

(2) Such registrants shall be responsible to assure RMOP, if used, is reviewed at least annually and that proper credentialing, review and that oversight is established, maintained and exercised.

(b) Prior to implementation of RMOP services, training shall be provided by the hospital drug room and the relevant portions of the hospital drug room's policy and procedure manual on RMOP entry shall be established and maintained; and reviewed by the Pharmacist providing RMOP entry services at least annually.
(c) All pharmacists involved in RMOP entry services are responsible for ensuring the confidentiality, privacy and security of patient health care information. At a minimum, the following conditions must be met:

(1) Pharmacists performing RMOP entry must be licensed by the Board.
(2) Pharmacists performing RMOP entry must adhere to the hospital's confidentiality policy and are responsible for ensuring the confidentiality of patient information as described in 535:10-3-1.1 (6) and 535:10-3-1.2 (a) (16).
(3) The hospital shall ensure the pharmacist performing remote medication order processing has individual, pharmacist-specific access to the hospital drug room's patient information system and to other electronic systems that on-site pharmacists have access to during the hours of operation of the hospital drug room.

(d) The hospital will make available to the pharmacist(s) performing RMOP entry, access to either hard-copy or online references as described in ~~535:15-5-9(1)(B) and 535:15-5-9(1)(C).~~ 535:15-6-6.1.
(e) The hospital's computer system shall have the ability to audit the activities of the pharmacist(s) remotely processing RMOP orders.
(f) A hospital drug room may allow RMOP for the patient population served under the hospital's drug room license by a pharmacist employed by the same licensed hospital drug room. Remote medication order processing performed for patients served under a different hospital drug room licensure requires a contractual arrangement fulfilling the responsibilities as outlined in 535:15-4-5.
(g) All Pharmacists who engage in RMOP shall ensure the following minimum information technology standards and specifications are met and maintained at the remote site:

(1) Availability of internet, phone, and scan or fax access to the hospital.
(2) Ability to access the hospital facility via the hospital's information system.
(3) To the extent possible, have redundant systems in place to ensure remote medication order processing service availability (e.g. internet connectivity, other information systems used to facilitate remote medication order processing).
(4) Have secure electronic access to the hospital's patient information system and to all other electronic systems that the on-site pharmacist has access to when the pharmacy is open.
(5) Use of a computer workstation e.g. with passwords, firewalls, and encryption.

(h) The record of each patient-specific RMOP drug or device order processed pursuant to this rule shall identify, by name or other unique identifier, each pharmacist involved in the review and verification of the order.
(i) Remote medication order processing by a pharmacist shall not relieve the hospital drug room from employing or contracting with pharmacist(s) to provide routine pharmacy services within the facility. The activities authorized by this rule are intended to supplement hospital drug room services when the pharmacy is closed or additional pharmacist assistance is needed and are not intended to eliminate the need for an on-site hospital drug room or pharmacist(s).
(j) Pharmacists performing remote medication order processing shall not be included in the ratio of the pharmacist and technician as outlined in 535:15-5-7.2.(e).
(k) A pharmacist employed by or contracting with a hospital drug room for on-site services may provide remote medication order processing services when the hospital drug room is closed or additional pharmacist assistance is needed through a remote medication order processing pharmacy.

SUBCHAPTER 7. DRUG SUPPLIER PERMITS

535:15-7-2. Drug supplier requirements [AMENDED]
(a) **Permit eligibility.** In order to obtain and maintain a drug supplier permit, the applicant must have a valid retail pharmacy license.
(b) **Total annual sales.** The total annual sales of the drug supplier shall not exceed five percent (5%) of the total annual sales of the pharmacy.
(c) **Records**. Separate records of sales will be kept on file by the pharmacy. The files will include, but not be limited to, invoices of sales with name and address of purchaser, name and address of supplier, quantity sold, drug description, lot number and expiration date of drug, price, and date of transaction. These files must be readily available for inspection.
(d) **Controlled Dangerous Substances.** Sales of controlled dangerous substances must conform with statutes and regulations of the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, the Federal Drug Enforcement Administration and/or any other federal, state or municipal laws, ordinances or regulations.

SUBCHAPTER 10. GOOD COMPOUNDING PRACTICES

PART 1. GOOD COMPOUNDING PRACTICES FOR NON-STERILE PREPARATIONS

535:15-10-1.1. Preparation of compounded drug products for over-the-counter (OTC) sale [NEW]

(a) A pharmacist licensed by the Oklahoma State Board of Pharmacy may, in accordance with state and federal laws and rules, prescribe non-prescription OTC drugs for the purpose of compounding for a known patient need.

(b) The compounded product shall not contain an ingredient which exceeds recommended strengths and doses for over-the-counter drugs.

(c) The finished compounded OTC product shall not be one for which a prescription is required.

(d) The compounded OTC product shall be labeled with:

(1) Patient name,

(2) Date,

(3) Product name,

(4) Name of all ingredients,

(5) Strength or quantity of all active ingredients,

(6) Package size,

(7) Directions for use,

(8) Use by date,

(9) Name, address, and telephone number of the pharmacy,

(10) Ancillary and cautionary instructions if needed,

(11) Requirements for proper storage, and

(12) An appropriate designation that this is a compounded nonprescription product, such as "Compounded OTC"

(e) The product shall be sold directly to the consumer only after professional interaction or consultation between a pharmacist and a consumer.

(f) The product may be prepared in advance in reasonable amounts in anticipation of estimated needs.

(g) The product shall not be sold to other pharmacies or vendors for resale.

(h) The product shall be stored within the prescription department.

(i) Compounding a drug product that is commercially available in the marketplace or that is essentially a copy of an available FDA-approved drug product is generally prohibited unless patient therapy is compromised.

[OAR Docket #24-752; filed 7-5-24]

TITLE 535. OKLAHOMA STATE BOARD OF PHARMACY
CHAPTER 25. RULES AFFECTING VARIOUS REGISTRANTS

[OAR Docket #24-753]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 6. Post and Active Duty Military Service and Their Spouse Applicants

535:25-6-2. Active duty military and their spouse requirements [AMENDED]

Subchapter 7. Rules of Registrant Conduct

535:25-7-7. Reporting [NEW]

AUTHORITY:

Oklahoma State Board of Pharmacy; Title 59 O.S., Sec. 353.7, 353.11 - 353.20.1, 353.22, 353.24 - 353.26 - 354, and 367.8; Title 51 OS 24A et seq.; Title 75 OS, Sec 2-201, 2-208, and 2-210

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 1, 2023

COMMENT PERIOD:

December 22, 2023 through January 22, 2024

PUBLIC HEARING:

January 24, 2024
ADOPTION:
January 24, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 25, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The changes in rule 535:25-6-2 include pharmacist score transfer applicants in the rule. The new rule in 535:25-7-7. adds reporting requirements to registrants.
CONTACT PERSON:
Marty Hendrick, 2920 N Lincoln Blvd., Ste A, Oklahoma City, OK 73105, 405-521-3815, mhendrick@pharmacy.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 6. POST AND ACTIVE DUTY MILITARY SERVICE AND THEIR SPOUSE APPLICANTS

535:25-6-2. Active duty military and their spouse requirements [AMENDED]
(a) Active-duty military personnel and their spouse licensed as a pharmacist or permitted as a pharmacy technician in another state, upon receiving notice or orders for military transfer or honorable discharge to Oklahoma are eligible for expedited pharmacist reciprocity license or initial technician permit.
(b) Active-duty military personnel and their spouse shall provide copies of military notice or orders as indicated in (a) and complete the required application. Such applicant shall present satisfactory evidence of education, training and experience of such valid license or certificate from another state.
(c) Not required for active-duty military personnel who are performing their duties only on the premises of an assigned military base pursuant to federal or military law or rule.
(d) Upon receipt of the completed application and when the required documentation from the other state is found to be in good standing and reasonably equivalent to the requirements in this state, the Board shall issue such licenses or permits within 30 days.

(e) The Board shall waive the fee for active-duty military and their spouse described in (a) above for the first period of issuance for such pharmacist reciprocity license, pharmacist score transfer license, or technician permit.

SUBCHAPTER 7. RULES OF REGISTRANT CONDUCT

535:25-7-7. Reporting [NEW]

(a) The registrant shall report any theft or significant loss of any drugs to the Board within one day of discovery. The registrant must complete and submit a DEA 106 form for any theft or significant loss of controlled substances to DEA within the required time. A copy shall be sent to the Board within fourteen (14) days of the filing of the DEA Form 106.
(b) A change in registrant manager must be reported to the Board in writing within ten (10) days.

[OAR Docket #24-753; filed 7-5-24]

TITLE 540. HEALTH CARE WORKFORCE TRAINING COMMISSION
CHAPTER 15. INTERNSHIP AND RESIDENCY PROGRAM

[OAR Docket #24-682]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
540:15-1-1. Purpose [AMENDED]
540:15-1-2. Statutory administration of program [AMENDED]
540:15-1-3. Terms and conditions of assistance [AMENDED]
AUTHORITY:
Health Care Workforce Training Commission; 70 O.S., § 697.21a
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 1, 2023
COMMENT PERIOD:
December 1, 2023 through January 8, 2024
PUBLIC HEARING:
January 8, 2024
ADOPTION:
January 18, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 24, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:

N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

This rule change will correct the rule language to include reference to the program administered in cooperation with the University of Oklahoma College of Medicine ("OU") and the University of Oklahoma College of Medicine at Tulsa ("OU Tulsa") (70 O.S., § 625.14), and not just the program administered in cooperation with Oklahoma State University College of Osteopathic Medicine ("OSU") (70 O.S., §§ 697.1 and 697.2). The rule change will also specifically detail the terms and conditions that residency programs must comply with in order to receive reimbursement, as well as establishing priority of reimbursement and use of carryover funds.

CONTACT PERSON:

Kami Fullingim, Executive Director (405), 604-0020, Kami.Fullingim@HWTC.ok.gov. For legal questions, contact Maria Maule, Assistant Attorney General, (405) 522-0055, Maria.Maule@oag.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

540:15-1-1. Purpose [AMENDED]

~~Section 697.1 of Title 70 of the Oklahoma Statutes indicates that *the legislature recognizes that there is a need to upgrade the availability of health care services for people of Oklahoma, and thus, there is a need to improve the balance of health care workforce distribution in the state both by type of practice and geographic location. Furthermore, the Legislature recognizes the need to accommodate the increasing number of graduates from the medical and osteopathic colleges of Oklahoma by retaining their services as practicing physicians in the state and by attracting graduates from schools outside the state. Therefore, it is the intent of the Legislature to increase the number of internship and residency programs offered for the training of physicians throughout the state through the sharing by the state of the costs of such internships and residencies with hospitals and other clinical residency training establishments. These programs shall be designed primarily to emphasize the training of primary health care and family practice physicians and to develop workforce programs to service directly the rural and nonmetropolitian areas of the state* or other areas of severe need. [70:697.1]~~ Recognizing the need to *upgrade the availability of health care services* for Oklahomans and *to improve the balance of health care workforcedistribution in the state both by type of practice and geographic location*, the Oklahoma Legislature developed a program whereby the state could share the costs of internship and residency programs with *accredited and approved hospital and accredited clinical programs throughout the state in cooperation with the* University of Oklahoma College of Medicine ("OU"), OU Medicine at Tulsa ("OU Tulsa"), and the Oklahoma State University College of Osteopathic Medicine ("OSU"). [70:625.14; 697.1; and 697.2] The purpose of this program is to *increase the number of internship and residency programs … throughout the state*, with an emphasis on training primary health care and family/general practice physicians *for the rural and medically underserved areas of the state.* [70:625.14; 697.1; and 697.2]

540:15-1-2. Statutory administration of program [AMENDED]

~~Section 697.2 of Title 70 of the Oklahoma Statutes provides that *the Health Care Workforce Training Commission is authorized to establish and administer cost-sharing programs for internship and residency physician training.* [70:697.2]~~ The Health Care Workforce Training Commission ("HWTC") is statutorily authorized to *establish andadminister cost-sharing programs for internship and residency physician training.* [70:625.14 and 697.2]

540:15-1-3. Terms and conditions of assistance [AMENDED]

~~Section 697.2 of Title 70 of the Oklahoma Statutes states that financial assistance for internship and residency training shall be provided to Oklahoma allopathic and osteopathic institutions engaged in postgraduate training on a cost sharing basis as follows:~~

~~(1) *Salary, fringe benefits, training and program administration of the interns and residents as may be arranged by contract for reimbursement with an accredited and approved hospital and accredited clinical programs throughout the state . . . .*[70:697.2]~~
~~(2) The Commission shall conduct the coordination and selection of internship and residency programs to assure the effective operation of these programs.~~
~~(3) *Not less than seventy-five percent (75%) of the subsidy for these programs shall be used in the training of primary health care and family/general practice physicians for the rural and medically underserved areas of the state* [70:697.2], the subsidy to a given training institution shall not exceed any maximum or minimum amount which may be prescribed by law or as determined by the Commission.~~
~~(4) *No less than forty percent (40%) of all participating residents and interns in each school year must participate in a rural program outside the Oklahoma City and Tulsa metropolitan areas.* [70:697.6]Residents and interns shall allocate the time spent in rural programs outside the Oklahoma City and Tulsa metropolitan areas in accordance with primary care specialty accreditation standards.~~

(a) Sections 625.14 and 697.2 of Title 70 of the Oklahoma Statutes authorize the Health Care Workforce Training Commission ("HWTC") to reimburse certain costs associated with internship and residency training programs (hereinafter, "Resident Expenses"), including salary, fringe benefits, training, and administrative costs, in order to help increase the number of Oklahoma residency programs, especially those established and accredited in rural hospitals.
(b) In order to be approved for HWTC reimbursement, a residency program:
(1) Must be affiliated with the University of Oklahoma College of Medicine ("OU"), OU Medicine at Tulsa ("OU Tulsa"), or the Oklahoma State University College of Osteopathic Medicine ("OSU"), which, for the purpose of this Section, shall mean that the residency program is:
(A) Funded and/or operated by OU, OU Tulsa, OSU, or the medical school's respective Hospital Trust Authority; or
(B) Formally recognized by OU, OU Tulsa, or OSU. Provided, however, a residency program located in the Oklahoma City or Tulsa metropolitan statistical area will not be deemed to be formally recognized unless it is owned by OU, OU Tulsa, OSU, or the medical school's respective Trust Authority;
(2) Must be accredited by the Accreditation Council for Graduate Medical Examination ("ACGME");
(3) Cannot submit a request for reimbursement of any expense that has been or is to be paid by another third-party funding source, including, but not limited to, the Centers for Medicare & Medicaid Services ("CMS"), Health Resources & Services Administration ("HRSA"), or Indian Health Service ("IHS");
(4) Must require at least forty percent (40%) of all residents and interns to participate in a rural residency program outside the Oklahoma City and Tulsa metropolitan areas, with the residents allotting their time in accordance with primary care specialty accreditation standards;
(5) Must spend at least seventy-five percent (75%) of the HWTC reimbursements on expenses related to the training of primary health care and family/general practice physicians in areas of the State that are both rural and medically underserved; and
(6) Must comply with all other applicable program requirements as established by HWTC or Oklahoma law.
(c) An approved residency program seeking reimbursement of Resident Expenses shall submit information sufficient to establish the program budget for the upcoming State Fiscal Year (July 1 through June 30), including, but not limited to, the estimated amount of Resident Expenses and all sources and amounts of anticipated third-party funding. This information shall be submitted in the format as required by agency staff no later than April 1 of each year. HWTC will apply the following order of priority, in terms of reimbursing Resident Expenses:
(1) HWTC will divide the appropriations it has received from the Legislature for the purpose of reimbursing Resident Expenses, by the total amount of unfunded Resident Expenses, so that all approved programs receive the same percentage of reimbursement.
(2) In the event the Legislature reduces the agency's appropriations for the purpose of reimbursing Resident Expenses, each approved residency program will receive the same percentage reduction in reimbursement.
(3) In the event that the agency's appropriations for the purpose of reimbursing Resident Expenses exceed the cost of fully reimbursing all unfunded salary expenses for all approved residency programs, the remaining appropriations will be distributed equally based on the total number of residents associated with an approved residency program i.e., on a per-resident basis).
(4) The Commission may direct the agency through formal action, to use carryover funds that had been designated for HWTC program placement and administrative costs to further reimburse Resident Expenses on a per-resident basis, provided that:
(A) HWTC program placement and administrative needs have been fully funded for the upcoming State Fiscal Year;

(B) The following incoming residents will receive an additional weight of 0.5 for the associated approved residency program:

(i) Incoming residents who will be attending OU, OU Tulsa, or OSU for medical school; and

(ii) Incoming residents who lived in Oklahoma for four (4) or more years in the past decade and who are returning to an Oklahoma residence from out of state; and

(C) Residents who establish an Oklahoma medical practice after graduation will receive an additional weight of 2.0 for the associated approved residency program.

(d) Reimbursement of Resident Expenses shall be made by HWTC only to the entity that paid for the Resident Expenses. Supporting documentation must be provided to HWTC upon request.

[OAR Docket #24-682; filed 6-26-24]

TITLE 540. HEALTH CARE WORKFORCE TRAINING COMMISSION
CHAPTER 55. HEALTH CARE WORKFORCE DEVELOPMENT GRANT PROGRAM

[OAR Docket #24-683]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Program Administration
540:55-3-6. Reimbursements [AMENDED]
AUTHORITY:
Health Care Workforce Training Commission; S.B. 1188, 59th Leg., Reg. Sess. (Okla. 2023) (enacted); S.B. 39x, 59th Leg., 1st Spec. Sess. (Okla. 2023) (enacted); S.B. 1458, 58th Leg., 2d Reg. Sess. (Okla. 2022) (enacted); S.B. 8xx, 58th Leg., 2d Spec. Sess. (Okla. 2022) (enacted); S.B. 9xx, 58th Leg., 2d Spec. Sess. (Okla. 2022) (enacted); S.B. 10xx, 58th Leg., 2d Spec. Sess. (Okla. 2022) (enacted); S.B. 17xx, 58th Leg., 2d Spec. Sess. (Okla. 2022) (enacted); and H.B. 1025, 58th Leg., 2d Spec. Sess. (Okla. 2022) (enacted).
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 1, 2023
COMMENT PERIOD:
December 1, 2023 through January 8, 2024
PUBLIC HEARING:
January 8, 2024
ADOPTION:
January 18, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 24, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A

DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The Health Care Workforce Training Commission proposes revising one of its rules relating to the Health Care Workforce Development Grant Program. This rule change will allow grantees to submit reimbursement requests to the Executive Director for purchases less than $50,000 more frequently, from once every two (2) months, to once every month. The rule change will also authorize the Executive Director to approve reimbursement of construction-related expenses that are equal to or more than $50,000, but less than $500,000, provided that the reimbursement request is received by HWTC on a date at least two (2) weeks before a scheduled Commission meeting and the Commission is informed of any such approvals at the next Commission meeting.
CONTACT PERSON:
Kami Fullingim, Executive Director (405), 604-0020, Kami.Fullingim@HWTC.ok.gov. For legal questions, contact Maria Maule, Assistant Attorney General, (405) 522-0055, Maria.Maule@oag.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. PROGRAM ADMINISTRATION

540:55-3-6. Reimbursements [AMENDED]
(a) **Prior authorization.** Grantees must receive written prior authorization from HWTC before making purchases exceeding a prior authorization threshold amount. This amount will be based upon the grantee's risk assessment, as completed by a third-party consultant, as well as the overall scope of the proposed project. Grantees shall be informed in writing of the prior authorization threshold amount. A grantee shall upload the quote and a brief justification to the grant software designated by HWTC, for review and prior authorization by the HWTC Grants Manager. Any purchase over the threshold amount that has not been prior authorized by the Grants Manager may not be reimbursed by the Health Care Workforce Development Grant program.
(b) **Invoices.** In order to obtain reimbursement, grantees shall electronically send monthly invoice packets to the HWTC Grants Manager. These packets must be received by the 5th day of each month.
(1) Invoice packets must include the following:
(A) Signed receipts/invoices for all purchases;
(B) A brief justification of all expenses (1-2 sentences explaining how the purchase benefits the project); and
(C) Bidding documentation with justification for why the vendor was chosen.
(2) Invoices shall not be submitted to HWTC for reimbursement before performance is completed by the vendor and accepted by the grantee, including physical receipt of goods. A grantee must sign the invoice or receipt to verify that the item or service has been received.
(c) **Approval by Commission or Executive Director.** After a purchase is prior authorized, if applicable, by the HWTC Grants Manager and made by the grantee, the grantee must still obtain approval before receiving reimbursement.
(1) **Purchases less than $50,000.** The Commission has delegated to HWTC's Executive Director the authority to approve reimbursement of purchases of goods and/or services that cost less than $50,000. Requests for the Executive Director's approval shall be made electronically. A written copy of the Executive Director's approval or disapproval shall be electronically sent to a grantee within fifteen (15) business days of submission. A grantee may not request more than one (1) reimbursement approval from the Executive Director in any ~~two-month (2-month)~~one-month (1-month) period.

(2) **Purchases of $50,000 or more.** ~~The Commission may, through formal Commission action, increase the maximum dollar value of reimbursements the Executive Director is authorized to approve, as identified in OAC 540:55-3-6(3)(a), above; any decision to provide such increased authorization to the Executive Director will be within the Commission's sole and absolute discretion and subject to the Commission's directives. Absent any increased authorization,~~

(A) **Construction-related purchases between $50,000 and $500,000.** The Commission has delegated to HWTC's Executive Director the authority to approve reimbursement of construction-related expenses that are equal to or more than $50,000, but less than $500,000, provided that:

(i) The reimbursement request is received by HWTC on a date at least two (2) weeks before a scheduled Commission meeting; and

(ii) The Commission is informed of any approvals made by the Executive Director at the next Commission meeting.

(B) **All other purchases of $50,000 or more.** All other requests to approve reimbursements equal to or more than $50,000 must be submitted to the Commission electronically, for approval or disapproval at a regularly- or specially-scheduled public meeting. Grantees that wish to be reimbursed following a particular Commission meeting must submit their invoice packets to the HWTC Grants Manager no less than two (2) weeks prior to the meeting. Grantees will be provided with a copy of the Commission meeting schedule, and may search for the Commission's meetings at https://www.sos.ok.gov/meetings/legacy/default.aspx. Grantees will be provided electronic correspondence reflecting the Commission's approval or disapproval within two (2) business days of the public meeting.

(d) **Advance payments, cash advances, and working capital advances.** Requests for advance payments, cash advances, working capital advances, or any other payment of ARPA funds that is made to a grantee other than on a reimbursement basis, must be submitted to OMES for approval, in accordance with OMES' policies, as amended, including, but not limited to, OMES' Controlled Advance Grant Policy, Post-Payment Reimbursement Policy, and Working Capital Policy.

[OAR Docket #24-683; filed 6-26-24]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

[OAR Docket #24-747]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Credited Service
590:10-3-6. Full-time-equivalent employment [AMENDED]
Subchapter 17. Step-Up Election and Benefits
590:10-17-7. Step-Up participating service calculations [AMENDED]
AUTHORITY:
Oklahoma Public Employees Retirement System; 74 O.S. Section 909
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 18, 2024
ADOPTION:
January 18, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 19, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:

N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
Subchapter 3. Credited Service
590:10-3-6 [AMENDED]
Subchapter 17. Step-Up Election and Benefits
590: 10-17-7 [AMENDED]
GUBERNATORIAL APPROVAL:
September 11, 2023
REGISTER PUBLICATION:
41 OK Reg 3
DOCKET NUMBER:
23-750
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amendments to 590:10-3-6 and 590:10-17-7 are necessary as payroll data received by the state's new payroll system does not allow for an accurate accounting of hours.
CONTACT PERSON:
Andrea Unruh, Assistant General Counsel, Oklahoma Public Employees Retirement System, 5400 N. Grand Boulevard, Suite 400, Oklahoma City, Oklahoma 73112, 405-858-6788

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. CREDITED SERVICE

590:10-3-6. Full-time-equivalent employment [AMENDED]
(a) Full-time-equivalent employment is a term which refers to a member's actual employment with a participating employer of the System. Full-time-equivalent employment with a participating Employer must have been service for which required contributions have been paid to the System.

(1) Members obtain full-time-equivalent employment in two ways:

(A) actual employment with a participating employer of the System, while participating and paying contributions to the System; and/or

(B) making certain types of purchases of service credit which represent actual employment with a participating employer of the System.

(2) ~~Each hour for which retirement contributions are paid shall credit the member with one (1) hour of full-time-equivalent employment. One hundred seventy-three (173) hours shall constitute one month of full-time-equivalent employment~~ Each month for which full-time retirement contributions are paid shall credit the member with one month of full-time-equivalent employment. Members shall receive one month of full-time-equivalent employment if the contributions submitted by the employer reflect the member's full-time salary as reported by the employer. For any pay period in which the member received less than the full-time salary, the service credit shall be reduced proportionally.

(3) Examples of service and/or employment which do not constitute full-time-equivalent employment include, but are not limited to: overtime, leave without pay, unused sick leave, bonus years, temporary or seasonal employment, prior service or military service granted free of charge, purchased military service credit other than purchases pursuant to the Uniformed Services Employment and Reemployment Rights Act, service purchased from another retirement system including transported service except as provided in Sections 590:10-11-4 and 590:10-11-13, and purchased incentive, severance or termination credit.
(4) Examples of service and/or employment which do constitute full-time-equivalent employment include, but are not limited to: purchased prior service, repayment of withdrawn contributions, purchase of elected service, purchased temporary total disability credit, purchases pursuant to the Uniformed Services Employment and Reemployment Rights Act, and delinquent service paid for by the employer.

(b) For purposes of determining the full-time-equivalent employment for elected officials, if the elected official is in office and participating for fifteen (15) days or more in either the first or last month in such office, the full month will be credited as service for such official. If an elected official resigns from office effective on a day other than the last day of the month, then such elected official shall not receive credit for a full month, but only those hours of full-time-equivalent employment service for that month.
(c) Elected officials who elect to participate within ninety (90) days after taking office, and those elected officials who fail to file an election within the ninety-day period and are automatically enrolled in the System, shall be deemed to begin service in the System on the date the elected official takes office. The elected official and the employer shall be responsible for the necessary contributions and any applicable delinquent service cost to cover such time period.

SUBCHAPTER 17. STEP-UP ELECTION AND BENEFITS

590:10-17-7. Step-Up participating service calculations [AMENDED]

The Step-Up will increase the member's computation factor to 2.5% for participating service which is accrued after the election. It will be computed for full years (12 months) of participating service only. ~~For purposes of the Step-Up calculation, 2076 hours equals a full year of participating service.~~ Partial years of service (including participation in the Step-Up for partial years), service prior to the Step-Up election, purchased credit, prior service, military service, transported service, bonus years and unused sick leave will all be calculated at the regular 2% computation factor.

[OAR Docket #24-747; filed 7-3-24]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
CHAPTER 25. DEFERRED COMPENSATION

[OAR Docket #24-748]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Benefits
590:25-9-1. Commencement of benefits [AMENDED]
590:25-9-5. Late retirement [AMENDED]
AUTHORITY:
Oklahoma Public Employees Retirement System; 74 O.S. Section 1701
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 18, 2024
ADOPTION:
January 18, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 19, 2024

LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amendments to 590:25-9-1 and 590:25-9-5 amend the required minimum distribution age to comply with the federal SECURE 2.0 legislation.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 9. BENEFITS

590:25-9-1. Commencement of benefits [AMENDED]
(a) The payment of amounts deferred under the Plan will become payable:
(1) No earlier than thirty (30) days after the Participant separates from service with the State, through termination or retirement; or
(2) No later than April 1 of the calendar year after the year the participant attains the applicable age ~~72~~ as required by the federal Internal Revenue Code or such other date as may be permitted by the federal Internal Revenue Code, except as provided in 590:25-9-5. Roth Elective Deferral Subaccounts and Roth Rollover Contribution Accounts are not subject to the requirements of Section 401(a)(9)(A) of the federal Internal Revenue Code.
(3) Plan-to plan transfers as described in 590:25-9-13 are not subject to the requirements for separation of service and shall be available for distribution within 45 days of acceptance of the properly completed distribution form as prescribed by OPERS.
(b) Rollover contributions as described in 590:25-9-16 are not subject to the requirements for separation of service and shall be available for distribution within 45 days of acceptance of a properly completed distribution form as prescribed by OPERS.

590:25-9-5. Late retirement [AMENDED]

If the Participant continues ~~his~~ employment after attaining ~~72 years of~~ such applicable age ~~or such other date~~ as ~~may be permitted by~~ set forth under the federal Internal Revenue Code Section 401(a)(9)(C)(v), all benefits payable under the Plan may be deferred until the Participant retires, terminates ~~his~~ employment, dies or when the Participant is faced with an unforeseeable emergency. If the Participant is not an active State employee, the payment of benefits must begin no later than April 1 of the calendar year following the calendar year in which the Participant attained such age ~~72 or such other date~~ as ~~may be permitted by~~ set forth under the federal Internal Revenue Code Section 401(a)(9)(C)(v). Roth Elective Deferral Subaccounts and Roth Rollover Contribution Accounts are not subject to the requirements of Section 401(a)(9)(A) of the federal Internal Revenue Code. No additional deferral under this Plan may be made by the Participant after termination of employment.

[OAR Docket #24-748; filed 7-3-24]

TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
CHAPTER 40. DEFINED CONTRIBUTION SYSTEM

[OAR Docket #24-749]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Defined Contribution 457(B) Plan
Part 7. BENEFITS
590:40-9-25. Commencement of benefits [AMENDED]
590:40-9-28. Late retirement [AMENDED]
AUTHORITY:
Oklahoma Public Employees Retirement System; 74 O.S. Section 909 and 935.3
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 18, 2024
ADOPTION:
January 18, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 19, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:

N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

The amendments to 590:40-9-25 and 590:40-9-28 amend the required minimum distribution age to comply with the federal SECURE 2.0 legislation.

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 9. DEFINED CONTRIBUTION 457(B) PLAN

PART 7. BENEFITS

590:40-9-25. Commencement of benefits [AMENDED]

The payment of amounts deferred under the Plan shall become payable:

(1) No earlier than forty-five (45) days after the Participant separates from service with the Employer, through termination or retirement; or

(2) Distribution of a Participant's account must begin no later than the required beginning date, which is the later of the April 1 following the calendar year in which the Participant attains the applicable age ~~72~~ as required by the federal Internal Revenue Code or such other date as may be permitted by the federal Internal Revenue Code, except as provided in 590:40-9-28, or the April 1 of the year following the calendar year in which the Participant terminates. If a Participant fails to apply for distribution by the later of either of those dates, the Board shall begin distribution of the Participant's entire interest as required by this Section in the form provided in 590:40-7-35. Roth Elective Deferral Subaccounts and Roth Rollover Contributions Accounts are not subject to the requirements of Section 401(a)(9)(A) of the federal Internal Revenue Code.

(3) The Participant's entire interest must be distributed over the Participant's life or the lives of the Participant and a designated beneficiary, or over a period not extending beyond the life expectancy of the Participant or of the Participant and the designated beneficiary.

(4) Plan-to plan transfers as described in 590:40-9-35 are not subject to the requirements for separation of service and shall be available for distribution within 45 days of acceptance of the properly completed distribution form as prescribed by OPERS.

590:40-9-28. Late retirement [AMENDED]

If the Participant continues employment after attaining ~~72 years of~~ such applicable age ~~or such other date~~ as ~~may be permitted by~~ set forth under the federal Internal Revenue Code Section 401(a)(9)(C)(v), all benefits payable under the Plan may be deferred until the Participant retires, terminates employment, dies, or when the Participant is faced with an unforeseeable emergency. If the Participant is not an active Employee, the payment of benefits must begin no later than April 1 of the calendar year following the calendar year in which the Participant attained such age ~~72 or such other date~~ as ~~may be permitted by~~ set forth under the federal Internal Revenue Code Section 401(a)(9)(C)(v). No additional deferrals under this Plan may be made by the Participant after termination of employment. Roth Elective Deferral Subaccounts and Roth Rollover Contribution Accounts are not subject to the requirements of Section 401(a)(9)(A) of the federal Internal Revenue Code.

[OAR Docket #24-749; filed 7-3-24]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 1. GENERAL RULES OF THE DEPARTMENT OF PUBLIC SAFETY

[OAR Docket #24-685]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Rules of Practice
595:1-3-2. Location [REVOKED]
Subchapter 9. Inspection and Copying of Final Orders, Decisions, Opinions and Open Records
595:1-9-10. Retention and destruction of Department records [AMENDED]
Subchapter 19. Oklahoma State Award Program
595:1-19-1. Definitions [AMENDED]
595:1-19-2. Order of precedence [AMENDED]
595:1-19-3. Award design [AMENDED]
595:1-19-4. Criteria for eligibility [AMENDED]
595:1-19-5. Criteria for proper wear of the Oklahoma Medal of Valor, the Oklahoma ~~Purple~~Blue Heart or the Oklahoma Red Heart, and the Oklahoma Distinguished Meritorious Service Medal [AMENDED]
595:1-19-6. Method of purchasing the ~~Oklahoma Medal of Valor and the Oklahoma Purple Heart~~State of Oklahoma Awards [AMENDED]
AUTHORITY:
Department of Public Safety; 47 O.S. § 2-108 and 47 O.S. § 2-108.5
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 22, 2023
COMMENT PERIOD:
January 16, 2024 through February 20, 2024
PUBLIC HEARING:
February 20, 2024
ADOPTION:
March 26, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 28, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

The amendments to the administrative rules on the Department's record retention requirements meet statutory requirements and Department policies. Additional amendments to this chapter include the modification of awards bestowed by the Oklahoma State Award Program (OSAP).

CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. RULES OF PRACTICE

595:1-3-2. Location [REVOKED]

~~Rules of practice before the Department of Public Safety, including the specific requirements of formal and informal procedures, and description of forms and instructions for use by the public, are set out in the rules adopted under each topic of the Department of Public Safety Rules unless provided for by statute or set out in this Chapter. [75 O.S.§302].~~

SUBCHAPTER 9. INSPECTION AND COPYING OF FINAL ORDERS, DECISIONS, OPINIONS AND OPEN RECORDS

595:1-9-10. Retention and destruction of Department records [AMENDED]

(a) **General.** Records that are no longer of value to the Department in carrying out the powers and duties of the Department may be destroyed pursuant to the conditions specified in this subsection or as otherwise specified in Department policy; provided, nothing in this subsection shall compel the Department to destroy any record. In the event there is uncertainty or ambiguity regarding what category or retention period applies to a particular record and provided no legal action is pending, the Commissioner or Commissioner's designee shall make the final retention or destruction decision. If legal action involving the records is pending, the record(s) shall be retained until the exhaustion of all legal remedies, then retained or destroyed at the discretion of the Commissioner or Commissioner's designee.

(b) **Records retention and disposal schedule.**

(1) **Human Capital Management.** Records of DPS personnel shall be retained for the term of employment plus an additional ten (10) years unless a different time period is specified.

(A) **Applications, resumes, and materials submitted for Employment-Not Hired.** Applications for employment and supporting documentation such as transcripts, resumes, and letters of recommendation; notes and other records pertaining to employment applications and job interviews shall be retained for one (1) year after the receipt by the Department.

(B) **Personnel records of regular state employees (active).** Record copies of applications, hiring, promotional date, and other personnel records pertaining to state employment of active regular state employees shall be retained in office until end of employment with the Department plus ten (10) years.

(C) **Personnel records of temporary state employees.** Record copies of application, hiring, promotional date, and all other personnel records pertaining to state employment of temporary state employees shall be retained in office or in permanent storage for three (3) years after the employee leaves the employ of the Department. At that time the employment application, Request for Personnel Action (OPM Form 14), Longevity Certification Form (OPM Form 52 or Equivalent), employment history cards, Individual Leave Record (OPM Form 1 or equivalent), INS Form I-9, correspondence relating to leave without pay, and Department of Defense Form DD214 shall be retained in office until the end of employment with the Department plus three (3) years.

(D) **Contractual employment records.** Records other than copies of contracts and payment information pertaining to contractual employment shall be retained in office for five (5), years after final payment, provided all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies.

(E) **Applicant/Employee Drug Testing Records.** Records shall be retained for five (5) years after the date the test was administered to the applicant/employee.
(F) **Discipline Records.** Records of the final imposition of informal and formal discipline shall be retained for the term of employment plus an additional ten (10) years.
(G) **Graded examinations.** Examinations administered to Department employees, and the results of such examinations, shall be retained for the term of employment of the person tested plus an additional five (5) years.
(H) **Fitness for Duty Evaluations.** Records shall be retained for the term of employment plus an additional ten (10) years.
(I) **Organizational Charts.** At least one current organizational chart indicating overall administrative structure of the Department to the unit level shall be retained in office until superseded by subsequent charts, then permanently stored for perpetuity.
(J) **Payroll financial records.** Unless specifically provided otherwise by administrative rule, the following records shall be retained in office for ten (10) years.

(i) The following records shall be retained in office until one (1) year after all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state.

(I) Copies of OSF Form 41, Payroll Funding Sheet-Record Type C and Tape Layout; OSF Form 41, Payroll funding Detail Listing-Record Type S and Tape Layout; and any required supporting documents submitted to the Office of State Finance for payment of employee wages and salaries
(II) Copies of OSF Form PWC, "Request for Payroll Warrant Cancellation" submitted to the Office of State Finance.
(III) Quarterly computer printouts from the Office of State Finance listing employee wages and tax deductions.
(IV) Reports listing employee salary and wage deductions for insurance, credit union dues, and annuities, as well as billing documents form insurance companies for premium payments and copies of applicable miscellaneous claims sent to the Office of State Finance.
(V) Overtime reports and payroll data for seasonal employees used to compile agency payrolls submitted to the Office of State Finance.
(VI) Copies of reports submitted to the State Insurance Fund that are the basis for premium calculations.
(VII) Copies of monthly computer printouts from the Office of State Finance.
(VIII) Records used to transmit each employee's monthly and supplemental payroll warrants and any applicable correspondence.
(IX) Records of claims by which the Department remits state employees' voluntary payroll deductions for supplemental insurance and retirement plans.

(ii) Prelists, copies of employee withholding data, payroll cancellation information, and other documents used to compile agency payroll shall be retained in office until superseded then retained or destroyed at the discretion of the Commissioner.
(iii) Records pertaining to deductions from employee salaries and wages for the purchase of U.S. Savings Bonds shall be retained in office for seven (7) years then retained or destroyed at the discretion of the Commissioner provided no legal action is pending. If legal action involving the records is pending, the records shall be retained until the exhaustion of all legal remedies, then retained or destroyed at the discretion of the Commissioner.
(iv) Cumulative monthly computer printouts from the Office of State Finance showing the gross pay, deductions and net pay on a calendar year basis shall be retained as follows:

(I) All monthly reports shall be retained in office until no longer needed for administrative purposes then retained or destroyed at the discretion of the Commissioner.
(II) All calendar year end reports shall be retained for two (2) years then retained or destroyed at the discretion of the Commissioner.

(K) **Requests for certification records.** Copies of requests submitted to the Office of Personnel Management for lists of qualified applicants for Merit System Positions shall be retained in office until two (2) years after the making of the records or the personnel action involved, whichever occurred later.

(L) **Office of Personnel Management correspondence.** Incoming letters and copies of outgoing responses to the Office of Personnel Management shall be reviewed on an annual basis. Duplicate and ancillary records as well as substantive records two (2) years old or more shall then retained or destroyed at the discretion of the Commissioner.
(M) **Reduction in force plans.** Copies of plans filed with the Office of Personnel Management outlining how the agencies will proceed in the event of an ordered reduction in force shall be retained in office until superseded by new plan then retained or destroyed at the discretion of the Commissioner one (1) year after all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state.
(N) **Affirmative action records.** Records pertaining to agency affirmative action policies, including but not limited to, all information received and sent regarding the Affirmative Action Plan, EEO reports, and directives from the Governor or Affirmative Action Plan Coordinator for the State, as well as annual reports, semiannual reports, and progress reports pertaining to agency affirmative action plan and policies and procedures implemented to insure that hirings, promotions, and terminations are carried out in full compliance with all applicable laws and rules and regulations shall be retained in office until superseded by subsequent plan then retained for three (3) years after all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies.
(O) **Agency promotional plans.** Copies of required plans submitted to the Office of Personnel Management shall be retained in office until superseded by subsequent plan, then retained in office for three (3) years after all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies.
(P) **Salary administration plan.** The Salary Administration Plan for positions used by the Department shall be retained in office for three (3) years provided all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies.
(Q) **Current employee rosters.** A roster of employees shall be retained in the office until superseded by a subsequent roster then retained or destroyed at the discretion of the Commissioner.
(R) **Unemployment compensation claims records.** Copies of unemployment compensation claim forms, correspondence, and supporting documentation relating to claims, appeals, and decisions for unemployment compensation shall be retained in office for two (2) years.
(S) ~~**Worker"s**~~ **Worker's Compensation quarterly report.** Quarterly reports received from the State Insurance Fund pertaining to workers' compensation insurance coverage of agency personnel and related correspondence shall be retained in office for two (2) years.
(T) **Worker's Compensation accident records.** Copies of Form 2, Form 3, Form 4, Form 5, Form 6, Form 7, Form 19, and other forms filed with the Worker's Compensation Court shall be retained in office in hard copy paper form until the employee leaves the Department plus ten (10) years.
(U) **Job descriptions ~~- merit.~~** Copies of Office of Personnel Management job descriptions for various classified positions shall be retained in office or in permanent storage.
(V) ~~**Job descriptions- non-merit.** Copies of present job descriptions for non-merit positions shall be kept permanently in office. A copy of all changes/updates to such job descriptions shall be kept permanently in office or in permanent storage.~~
~~(W)~~ **Grievance procedures records.** Copies of records concerning the resolution of employee grievances submitted to the Office of Personnel Management shall be retained in office until the subject employee leaves the Department plus ten (10) years.
~~(X)~~(W) **Merit Protection Commission or Civil Service Division cases.** Copies of materials relating to hearings or appeal requests under investigation by the Merit Protection Commission or Civil Service Division for alleged violations of the Oklahoma Personnel Act shall be retained in office until the subject employee leaves the Department plus ten (10) years.
~~(Y)~~(X) **Equal Employment Opportunity Commission complaint records.** Copies of material relating to charges of discrimination or harassment filed with the Equal Employment Opportunity Commission against the Department shall be retained in office until the subject employee leaves the Department plus ten (10) years.
~~(Z)~~(Y) **Access badges.** Access badges to certain work areas, storage areas, or other areas where access is restricted shall be retained or destroyed at the discretion of the Commissioner upon resignation, retirement, or termination of employment of the employee.

~~(AA)~~(Z) **Benefit information.** Copies of records relating to benefits available to state employees shall be retained in office for one (1) year after superseded by subsequent information.
~~(BB)~~(AA) **Position description questionnaire.** Copies of OPM Form 39, (Position Description Questionnaire) used to describe each position within the Department and for possible reclassification shall be retained in office for one (1) year after being superseded by subsequent.
~~(CC)~~(BB) **Garnishment records.** Copies of salary records filed with county clerks pursuant to a garnishment shall be retained in office for one (1) year after notification by the court of payment of obligation or release of payment of obligation.
~~(DD)~~(CC) **Internal Revenue Service levies records.** Orders issued by the Internal Revenue Service requiring deductions from employee salaries for the payment of taxes owed to the federal government shall be retained in office for one (1) year after notification of payment of obligation and final release of payment of obligation.
~~(EE)~~(DD) **Department of Justice Immigration and Naturalization Service form I-9.** Department of Justice Immigration and Naturalization Service Form I-9 (Employment Eligibility Verification) and supporting documentation shall be retained in office for one year after the person is no longer employed by the Department provided the records are at least three (3) years old.
~~(FF)~~(EE) **Work activity sheets.** Weekly timesheets, timecards, or equivalent which may be signed by the employee and his/her immediate supervisor indicating actual hours worked, leave status hours, and total hours for the week shall be retained in office for three (3) years provided all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies.
~~(GG)~~(FF) **Selection procedure and recruitment records.** Records pertaining to internal recruitment to fill position vacancies within the Department including but not limited to, position vacancy announcements; position descriptions; salary and benefits information; applications; supporting documentation including resumes, transcripts, and letters of recommendation; interview notes; correspondence with applicants and other materials relating to internal recruitment to fill position vacancies shall be retained in office for two (2) years after the position is filled.
~~(HH)~~(GG) **Employee mediation records.** Forms, incoming memoranda, copies of outgoing memoranda, and other records pertaining to the resolution of employee mediation disputes shall be retained in office for five (5) years.
~~(II)~~(HH) **OSHA log and summary of occupational injuries and illnesses.** U.S. Department of Labor OSHA Form No. 200 or equivalent maintained as a log and summary record of "recordable" injuries as defined in 29 CFR, '1904.1, *et seq.*,shall be retained in office for five (5) years "following the end of the year to which they relate" (29 CFR, §1904.6).
~~(JJ)~~(II) **OSHA supplementary record.** U.S. Department of Labor OSHA Form No. 101 or equivalent maintained to record supplementary information about "recordable" injuries and illnesses as defined in 29 CFR, §1904.1, *et seq.,* shall be retained in office for five (5) years "following the end of the year to which they relate" (29 CFR, §1904.6).
~~(KK)~~(JJ) **Oklahoma log of summary of occupational injuries and illnesses.** Oklahoma Department of Labor Form OK No.200 or equivalent maintained as a log and summary record of occupational injuries and illnesses as required by the Rules and Regulations of the Oklahoma Department of Labor shall be retained in office for five (5) years following the year to which they.
~~(LL)~~(KK) **Personnel transaction freeze exception request.** Records submitted with a Request for Personnel Action form to the Office of Personnel Management by an agency requesting that a job be filled despite a mandated freeze on jobs shall be retained in office one (1) year after all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies.
~~(MM)~~(LL) **Other personnel records.** Unless specifically provided otherwise by administrative rule, all other personnel records shall be retained in office for a period of five (5) years.

(2) **Audio and video recordings of the Department.**

(A) Audio or video recordings of, or created solely for training events, maintenance or testing purposes, or capability demonstrations, may be destroyed when no longer of value to the Department.
(B) Other than records subject to (A) above, any audio or video recordings depicting the use of force, vehicle pursuit, custodial arrest, discharge of a firearm, or any felony offense shall be maintained for three (3) years after the event was recorded.

(C) Any audio and video recordings not identified in (A) or (B) above shall be maintained for ninety (90) calendar days after the event was recorded provided no legal action is pending. If legal action involving the records is pending.

(3) **Aircraft records.** Records specified in 17 CFR §91.417, such as records of maintenance, preventive maintenance, and inspections, shall be retained for the life of the aircraft.

(A) All records specified in 14 CFR §91.417(a)(1) shall be retained until the work is repeated or superseded by other work or for one (1) year after the work performed.

(B) All records specified in 14 CFR §91.417(a)(2) shall be retained and transferred with the aircraft at the time the aircraft is sold. The Department shall retain a copy of such records for five (5) years after the date of sale.

(4) **Property records.**

(A) **Inventory.** Records relating to physical property, equipment, and materials shall be retained until the property is properly transferred or disposed of, plus an additional five (5) years.

(B) **Evidentiary or Asset Forfeiture.** Records shall be retained until the case is closed plus an additional ten (10) years.

(C) **Seized/confiscated property.** Records shall be retained until all seized property has been disposed of plus an additional one (1) year.

(D) **Real property files.** Records containing deeds, titles, inspection reports, loan agreements, promissory notes, and related records dealing with ownership of property shall be retained in office until five (5) years after the final disposition of property provided all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies.

(E) **Risk Management Certificate of Self-Insurance.** Copies of Certificates of Self-Insurance issued by the Risk Management Division of Central Services verifying liability insurance shall be retained in office until superseded by subsequent Certificate then retained or destroyed at the discretion of the Commissioner.

(F) **Property inventory/surveys.** Original property inventories/property surveys conducted for Risk Management and computer printouts received from Risk Management with notations concerning comprehensive insurance coverage shall be retained in office until superseded by subsequent.

(G) **Incident reports.** Incident reports completed when an incident has occurred where the State might be liable for damages including, but not limited to, Standard Liability/Standard Incident Report, In Case of Accident Report or related reports completed at the time of the incident and records of reports of incidents and/or occurrences involving the Department employees which do not result in risk management or worker's compensation claims shall be retained in office for five (5) years.

(H) **Safety Audits.** Safety Audits conducted by Risk Management Safety Engineer, the Department of Labor, the Department, or others, plus follow-up reports and correspondence shall be retained in office until the next safety audit.

(I) **Safety correspondence.** Correspondence from the Risk Management Division, the Department of Labor, the Department, or others concerning tips on safety and avoiding accidents shall be kept until no longer needed for administrative purposes.

(J) **Building facility inspection reports.** Inspection reports and allied documents of inspections of all building facilities of the Department shall be retained in office one (1) year from the date of inspection or until the following inspection, whichever is longer.

(K) **Capital improvement projects records.** Department capital improvement project records, including but not limited to, information to bidders, bid form proposals, bid affidavits, pertinent Senate and House bills, public construction contracts, and Construction Contract Forms for Use by Public Agencies shall be retained in hard copy paper form for not less than three (3) years.

(L) **Material safety data sheets.** Material Safety Data Sheets (MSDS) listing each hazardous substance that has been identified by the Chemical Information List (CIL) shall be retained in accordance with the Department of Labor requirements for these documents.

(5) **Administrative records.**

(A) **Policies and procedures.** Records relating to any internally posted or distributed manuals, guidelines, or similar records concerning the personnel, activity, and operations of the Department, shall be retained until the record is superseded plus an additional ten (10) years.

(B) **Grant administration information for federal Grant awards.** Grant awards, sub-recipient agreements, expenditure details and approvals, reimbursement details and approvals, federal waiver requests, monitoring reports, and all other grant-related documentation shall be retained for the current federal fiscal year plus four (4) years.
(C) **Contracts and leases.** Records relating to contracts, leases, and other binding instruments including bid specifications, affidavits of publication of calls for bids, accepted and rejected bids, performance bonds, contracts, purchase orders, inspection reports, and correspondence, shall be retained until expiration or termination of the instrument according to its terms plus an additional seven (7) years.
(D) **Meeting agenda, minutes, and notes, desk calendars, and appointment books.** Administrative records relating to meetings held or attended by Department personnel, including personally created notes, shall be retained for one (1) year after the meeting is held.
(E) **Administrative investigations.** Records relating to administrative or internal investigations conducted by the Department shall be retained until the investigation is closed plus an additional three (3) years.
(F) **Correspondence.** Records or copies of general or administrative correspondence shall be retained for one (1) year after the creation, receipt, or transmittal of the record, whichever is a longer period of time. The Commissioner's, Assistant Commissioner's, and Chief of Patrol's incoming correspondence and copies of outgoing correspondence shall be stored for perpetuity. A review may be conducted on an annual basis. After the review, all duplicate and ancillary records and substantive records three (3) years old or older and no longer needed by the Department for administrative purposes may be destroyed.
(G) **Government publications.** Internal Department publications and publications of the state or other governmental entities shall be retained until superseded or when obsolete.
(H) **Legislative files.** Reference copies of pending legislation bills that may have an effect upon the Department shall be retained in the office until passed into law or no longer required for administrative purposes.
(I) **Reports.** Record copies of reports submitted by Divisions, Departments, or Sections documenting activities to the Administration shall be retained in office for three (3) years.
(J) **Mailing lists.** Material used to create, maintain, and generate mailing lists shall be retained in office until no longer needed for administrative purposes.
(K) **Policies and procedures file.** A copy of the Department's Policy and Procedures Manual, including all updates/changes shall be kept permanently in office.
(L) **Rulemaking and Oklahoma Administrative Code.** Records regarding emergency, permanent, and preemptive rules and revocations of rules proposed in accordance with 75 O.S. §250, et seq., including but not limited to notice documents, rule documents, proposed rules, rule revocations, and other submissions for publication in the *Oklahoma Register* and the *Oklahoma Administrative Code*; written statements and petitions received during the comment period or during public hearings; stenographic notes; video tapes and audio tapes made during public hearings; petitions for exceptions to rules; summary statements of public hearings prepared by the Department, copies of attestations, liaison verifications, rule impact statements, transmittal letters to the governor and the legislature; notices of gubernatorial and legislative approval/disapproval; and any other records required by the Administrative Procedures Act (75 O.S. §250, *et seq.*) and the Administrative Rules on Rulemaking shall be retained in permanent storage for perpetuity.
(M) **Public relations file.** Copies of news releases and clippings, cassette recordings of broadcast announcements, and other public relations materials shall be retained in-house for three (3) years and then permanently stored for perpetuity.
(N) **Insurance documentation excluding Risk Management, employee insurance and State Insurance Fund documentation.** Records of or pertaining to auto, fire, insurance, and other insurance policies excluding Risk Management, employee insurance, and State Insurance Fund documentation shall be retained in office until five (5) years after the expiration of the policy.
(O) **Other administrative records.** All other administrative records not specifically referred to in these rules shall be retained for two (2) years.

(6) **Records relating to law enforcement.**

(A) **Use of Force Reports.** Records shall be retained in office for three (3) years after the date the report is created and then permanently stored for perpetuity.

(B) **Criminal investigative files.** Records relating to criminal investigations conducted by the Department shall be retained in office for ten (10) years after the investigation is closed and then permanently stored for perpetuity.
(C) **Training records.** Instructional materials, such as curricula, outlines, syllabuses, audio or visual training aids, handouts, computer presentations, and other records associated with in-house training of Department personnel on policies and procedures, operations, job performance, and other activities relating to the Department's programs, services, or projects, shall be retained in office until superseded plus an additional ten (10) years.
(D) **Instructor certification.** Records shall be retained in office for the term of employment of the instructor plus an additional five (5) years.
(E) **Speed trap.** Records relating to the investigation of a speed trap shall be retained in office for five (5) years after the investigation is complete.
(F) **Telephone logs.** Records of telephone logs of incoming calls shall be retained in office until no longer needed for administrative purposes. When telephone logs are critical to a criminal investigation, the telephone logs will be retained according to OAC 595:1-9-10(6)(B).
(G) **Radio logs.** Records of radio logs, including a chronological listing of the calls dispatched shall be retained in office until no longer needed for administrative purposes. When radio logs are critical to a criminal investigation, the radio logs will be retained according to OAC 595:1-9-10(6)(B).
(H) **OLETS.** Records regarding the Oklahoma Law Enforcement Telecommunication System shall be retained in office for five (5) years.

(7) **Commercial motor vehicle enforcement records.** Records shall be retained in office for five (5) years after the date the record is created.

(8) **Litigation records.**

(A) **Litigation files - Attorney General is attorney of record.** Records concerning litigation to which the Department is a party where the Attorney General is the attorney of record, including but not limited to petitions, motions, pleadings, depositions, orders, opinions, and related material shall be retained in office for two (2) years after the exhaustion of all legal remedies
(B) **Litigation files - staff or private attorney is attorney of record.** Records concerning litigation to which the Department is a party where a staff or private practice attorney is the attorney of record, but the Attorney General is not, including, but not limited to petitions, motions, pleadings, depositions, orders, opinions, and related material shall be retained in office until the exhaustion of all legal remedies, then maintained in permanent storage for at least a further ten (10) years.
(C) **Litigation files - the Department not a party.** Records concerning litigation to which the agency is not a named party, but is a real party in interest or interested in an embedded issue within the litigation shall be retained in office until no longer needed for administrative purposes
(D) **Court orders.** Court orders issued by judges requiring that certain actions be taken by the Department shall be retained in office for two (2) years after the exhaustion of all legal remedies.

(9) **Financial records.**

(A) **Accounting records.** Records generated, received, or utilized by any of the financial divisions of the Department shall be retained in accordance with the following schedule.

(i) Unless specifically provided otherwise by administrative rule, all accounting records shall be retained in office until placed in permanent storage. Such documents shall be held in permanent storage for perpetuity.
(ii) The following records shall be retained in office for three (3) years until placed in permanent storage. Such documents shall be held in permanent storage for perpetuity.

(I) Copies of OSF Form 3, "Notarized Claim Form"; OSF Form 15A, "Claim Jacket Form"; OSF Form 15B, "Inter/Intra Payment"; OSF Form 19, "Travel Voucher"; Affidavit-Actual and Necessary Unreceipted Travel Expenses; and OSF Form 19A, Travel Voucher Attachment submitted to the Office of State Finance for payment of financial obligations other than payrolls,
(II) Copies of OSF Form 14, "Claim for Disbursement of Payroll Withholdings" and OSF Form 9, "Imprest Cash Form",
(III) Copies of affidavits submitted to the State Treasurer's Office requesting the issuance of warrants to replace warrants that have been lost, stolen, or destroyed,
(IV) Copies of affidavits submitted to the Office of State Finance requesting the issuance of warrants to replace warrants issued in error,

(V) Copies of OSF Form 20A and 2-20 requesting the issuance of warrants to replace ones which have been statutorily canceled,
(VI) Copies of OSF Form MWC, "Request for Miscellaneous Warrant Cancellation", submitted to the Office of State Finance,
(VII) Copies of OSF Form 6 or any form used to acquire goods and services when it is not feasible or required to go out on competitive bid,
(VIII) Records of Accounts receivable by the Department, billing on those accounts receivable, and any supporting documents.
(IX) Copies of monthly computer printouts from the Office of State Finance listing all miscellaneous warrants issued during the reporting period,
(X) Correspondence from the Department and Stop Payment Forms completed by Treasurer's office employees when the Department request that warrants not be redeemed for payment,
(XI) Copies of forms submitted to the State Treasurer's Office along with deposits of funds to Treasury Fund Accounts and supporting information,
(XII) Copies of documents, including Agency Summary/Activities Statements and reconcilement of Official Depository Balance as per Statement Rendered by the State Treasurer's Office, used to reconcile the Department's accounting with those compiled by the State Treasurer's Office,
(XIII) Copies of OSF Form 18 submitted to the Office of State Finance requesting permission to establish special accounts,
(XIV) Copies of letters submitted to the State Treasurer's Office requesting the establishment of an Agency Clearing Account,
(XV) Invoices, vouchers and supporting documentation for payment of obligations from the Department Special or Clearing Accounts,
(XVI) Vouchers written on special accounts that are ultimately returned to the Department and not to the State Treasurer,
(XVII) Copies of OSF Form 11, "Agency Clearing Account Report" and OSF Form 11A, "Agency Special Account Report" detailing transactions through clearing and special accounts,
(XVIII) Records pertaining to deposits previously credited to Department accounts by the State Treasurer's Office that have been 'charged back' because of checks that were returned by banks for insufficient funds, closed accounts, or other reasons, including but not limited to, checks returned and Charge Back Slips listing agency names, account numbers, amounts being charged back and transaction dates,
(XIX) Records of both corporate and individual bankruptcy filings, notices of creditors meetings, and related incoming and copies of outgoing correspondence,
(XX) Annual year-end GAAP reports and supporting information.

(B) **Budget records.**

(i) Unless specifically provided otherwise by administrative rule, all budgeting records shall be retained in office house until placed in permanent storage. Such documents shall be held in permanent storage for perpetuity.
(ii) The following records shall be retained in office for three (3) years until placed in permanent storage. Such documents shall be held in permanent storage for perpetuity.

(I) Department budget requests submitted to the Office of State Finance for development of Executive budget and materials submitted from various divisions and other working papers used to compile the agency budget.
(II) Copies of OSF Form 55, Capital Outlay Projects; OSF Form 47, Detail of Personnel by Sub-Activity; PSF From 47.1, Detail of Exempted Personnel by Sub-Activity; OSF From 47.2, Detail of Professional Services by Sub-Activity; OSF Form 16, detail of Expenditures by Sub-Activity; OSF Form 22, Summary of Sub-Activities within an Activity; OSF From 17, Detail of Expenditures by Activity; OSF From 21, Summary of Activities within an Agency; OSF From 33, Estimate of Income To Agency Funds; OSF Form 48, Request for Allotment and/or Appropriation Transfer; OSF Form 47, Detail of Personnel by Sub-Activity-Revision; OSF From 47.2, Detail of Professional Services by Sub-Activity-Revision;

OSF Form 16, Detail of Expenditures by Sub-Activity- Revision; OSF Form 22, Summary of Sub-Activities within an Activity-Revision; OSF From 21, Summary of Activities Within an Agency-Revision; OSF Form 33, Estimate of Income to Agency Funds-Revision budget requests and materials submitted from various divisions and working papers used to compile the Department's budget work program.
(III) Copies of OSF Form 24A requesting that revolving and appropriated funds be posted to agency accounts.
(IV) Copies of OSF Form 48 requesting that appropriate funds be transferred to different line items.
(V) Copies of letters submitted to the Office of State Finance requesting the establishment of treasury fund accounts.

(C) **State finance reports.**

(i) Unless specifically provided otherwise by administrative rule, all state finance report records shall be retained in office house until placed in permanent storage. Such documents shall be held in permanent storage for perpetuity.
(ii) The following records shall be retained in office for three (3) years until placed in permanent storage. Such documents shall be held in permanent storage for perpetuity.
(I) Monthly computer printouts from the Office of State Finance listing the closing balances of all treasury accounts.
(II) Monthly computer printouts from the Office of State Finance showing beginning account balances, receipts, disbursements, transfers, and ending balances for each Department fund.
(III) Computer printout from Office of State Finance listing deposit totals for the current month and fiscal year.
(IV) Computer printout from Office of State Finance listing all deposits.
(V) Copies of OSF Form PFT submitted to the Office of State Finance showing transfer activity between budgetary funds and the payroll fund (data includes fund, agency, account, sub-activity, transfer, debit and credit).
(VI) Journal entries by agency and fund.
(VII) Monthly computer printouts from the office of State Finance listing expenditures by object of expenditure sequence.
(VIII) Computer printouts from the Office of State Finance listing agency expenditures by object code in fund sequence.
(IX) Monthly computer printouts from the Office of State Financing listing expenditures incurred within each agency fund and the amount.
(X) Computer printouts from the Office of State Finance listing processed warrantless claims.
(XI) Computer printouts from the Office of State Finance listing expenditures pertaining to contractual services, i.e., legal, architectural, administrative, and consulting.
(XII) SEFA Transactions Report.
(XIII) Computer printouts from the Office of State Finance listing statutory cancellation of warrants.
(XIV) Monthly printout generated by Office of State Finance listing outstanding Purchase Orders.
(XV) Lapse Fund Advance Notice/Continuing Funds.
(XVI) Cumulative quarterly computer printout from the Office of State Finance listing Department travel claims.
(XVII) Cumulative monthly computer printout forms the Office of State Finance listing expenditures against authorizations.

(D) **Procurement and other costs related records.**

(i) Unless specifically provided otherwise by administrative rule, all procurement and communication costs records shall be retained in office for not less than seven (7) years from the date of purchase.
(ii) The following documents shall be retained in office until no longer needed for administrative purposes.

(I) Correspondence and materials from Risk Management Division concerning policies and rules and regulations regarding Risk Management.
(II) Records containing inventory and sales reports (FMD-1) for Department owned vehicles, including vehicle number, make, model and year, purchase date, cost, license tag number, location and whether owned, loaned or leased by the Department.
(III) Monthly summaries turned into Fleet Management Division reporting fuel cost and usage, maintenance done and cost and related information.
(IV) Records containing correspondence and reports detailing Fleet Management policies and rules and regulations.
(V) Postal Service Form 3083-Trust Accounts and Withdrawal Receipts-Postal Service form received daily by agency showing balance for Business Reply Mail (Permit 601) and Record of Registered, Insured, C.O.D., Certified, and Express Mail-U.S. Postal Service PS Form 38877, used in conjunction with special mail services records shall be retained in office house for one (1) year after all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies.
(VI) Copies of procurement documents including, but not limited to, correspondence, forms, bid documents, and bid responses, completed in office or by the Department of Central Services for acquisition of products and/or services will be retained in accordance with the OMES rules for record retention.
(VII) Monthly telephone bills and applicable attachments sent by the Office of State Finance.
(VIII) Memos, worksheets, and invitations to bid on surplus property shall be retained in office for ten (10) years after sale or transfer provided all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies.
(IX) Contracts for leasing of space for office, warehouse, or storage and contracts for the leasing of equipment shall be retained in accordance with the OMES rules for record retention.
(X) Reports of auctions conducted by the Department, including but not limited to letters to the Central Purchasing Division of OMES requesting permission for auction, lists of items to be auctioned, letter from OMES authorizing sale, buyer sign-in sheets, sales tickets, amounts recorded by buyer (net sales, tax, gross), report to OMES on items sold and price of each, and other miscellaneous supporting documents, and copies of reports to Oklahoma Tax Commission (Schedule 83-13, Series 3-1) on sales tax derived from the auction shall be retained in office for five (5) years provided all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies.
(XI) Records of detailed vehicle maintenance for Department owned vehicles shall be retained in office until the vehicle is sold or otherwise disposed provided all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies.

(10) **Electronic records.**

(A) **Data processing, planning, development, and evaluation records.** Records consisting of planning, development, and evaluation records relating to selection, including feasibility studies, planning documents, and justification supporting materials; implementation; upgrading, modification, or conversion of systems and equipment; procedures; and manuals pertaining to the acquisition and use of data processing equipment shall be retained in accordance with the OMES rules for records retention.
(B) **Systems documentation records.** Records consisting of record layouts, code books, technical specifications, flow charts, job control records, test data, and all other records pertaining to systems operations shall be retained in office until one (1) year after applicable equipment or program has been disposed of or discontinued provided all audits have been completed and all applicable audit reports have been accepted and resolved by all applicable federal and state agencies
(C) **Internal systems usage logs.** System Usage Logs and all allied records used to record system usage within the Department shall be retained in office for ninety (90) days.

(D) **Federal Bureau of Investigation systems usage logs.** System Usage Logs and all allied records used to record system usage involving contact or use with the electronic systems of the Federal Bureau of Investigations shall be retained in office for one (1) year.
(E) **E-Mail.** All communications transmitted through the email system that are made in connection with the transaction of official business, the expenditure of public funds, or the administration of public property are considered state records subject to the Records Management Act, 67 O.S. §§ 201 through 217 and the Open Records Act, 51 O.S. § 24A.1, *et seq.*

(11) **Information services records.**
(A) **Criminal history information request forms.** Criminal History Information Request Forms used to request copies of a criminal history from the Department and all other correspondence relating to such requests shall be retained in office for sixty (60) days
(B) **Uniform crime reporting documents.** Reports from contributing agencies used by the Department in furtherance of an investigation shall be retained in accordance with OAC 595:1-9-10(6)(B).
(C) **Open record requests.**
(i) Requests for records and all related correspondence shall be retained in office until such request is fulfilled or denied plus an additional two (2) years.
(ii) All other records pertaining to requests for information under provisions of the Oklahoma Records Act [51 O.S., §24A1, et seq.], shall be retained in office for two (2) years.
(iii) The original of any record provided in response to a record or information request shall be retained in office for the time period specified in these rules for that particular record, or for two (2) years after the request is fulfilled, whichever is longer.
(D) **Subpoenas.** Subpoenas and all related correspondence shall be retained until the subpoena has been routed to the correct custodian of records, fully complied with, withdrawn by the issuing entity, or quashed by a court. The original subpoena and of any record provided in response to a subpoena shall be retained in office for the time period specified in these rules for that particular record, or for two (2) years after the subpoena is complied with, whichever is longer.

(12) **Wrecker and Towing Services.** Records relating to Title 595, Chapter 25 of the Oklahoma Administrative Code shall be retained in office for a minimum of ten (10) years from the date of last action.
(13) **Audit reports.** 375:8-3-27. Reports of audits conducted by the Department, State of Oklahoma, the Federal Government, or private auditing firms shall be retained in office for ten (10) years.
(14) **Other records.** Any other record of the Department not identified specifically herein, shall be retained in office for ten (10) years after the last activity related to the record.
(15) **Ancillary records.** Ancillary records may be destroyed when no longer of immediate value to the Department.

SUBCHAPTER 19. OKLAHOMA STATE AWARD PROGRAM

595:1-19-1. Definitions [AMENDED]

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

"Advisory board" means an advisory board formed at the discretion of the OSAP Committee chair comprised of a designee from each of the nine members of the OSAP Committee to collect, review, and make initial award recommendations to the Committee.

"Oklahoma Distinguished Meritorious Service Medal" means a medal or medals awarded by the Governor, in the name of the State of Oklahoma, to any person who has demonstrated meritorious achievement or has shown distinguished meritorious service to the state over an extended period of time while performing or actively engaged in public service activities.

"Oklahoma Medal of Valor" means a medal or medals awarded by the Governor, in the name of the State of Oklahoma to any person, living or deceased, in recognition of extraordinary acts of valor by public safety members and other citizens whose actions display great moral strength and personal courage in the face of fear, danger or difficulty while actively engaged in public service activities.

"Oklahoma ~~Purple~~Blue Heart" means a medal or medals awarded by the Governor in the name of the State of Oklahoma, exclusively to law enforcement and public safety members, living or deceased, who while serving under competent authority and acting within the legal and justified scope of their position suffers life-threatening injuries or injury resulting in a loss of limb, serious body impairment, deformity, loss of life or any injury resulting in the public safety member's service-related retirement.

"Oklahoma Red Heart" means a medal or medals awarded by the Governor in the name of the State of Oklahoma, exclusively to firefighters, living or deceased, employed by any city or town in Oklahoma and acting within the legal and justified scope of their position suffers life-threatening injuries or injury resulting in a loss of limb, serious body impairment, deformity, loss of life or any injury resulting in the public safety member's service-related retirement.

"OSAP Committee" means the Oklahoma State Award Program Committee, also referred to as the "OSAP Committee".

"Public Safety Member" means a person acting within the legal scope of duty and serving in any full-time, part-time, volunteer, or reserve capacity as a law enforcement officer, correctional officer, firefighter, paramedic, or emergency medical technician of any jurisdictional authority.

"Public Service Activity" means activities, individual actions, and any other personal act directly related to the aid of another person or persons without consideration of compensation or recognition.

595:1-19-2. Order of precedence [AMENDED]

(a) The Oklahoma Medal of Valor is recognized as the highest award of honor presented to a member of a public safety agency or a member of the public. Award recipients are selected by the OSAP Committee and awarded by the Governor on behalf of the State of Oklahoma.

(b) The Oklahoma ~~Purple~~Blue Heart and/or the Oklahoma Red Heart is recognized as the second highest award of honor presented to a member of a public safety agency. Award recipients are selected by the OSAP Committee and awarded by the Governor on behalf of the State of Oklahoma.

(c) The Oklahoma Distinguished Meritorious Service Medal is recognized as the third highest award of honor presented to a member of a public safety agency or a member of the public. Award recipients are selected by the OSAP Committee and awarded by the Governor on behalf of the State of Oklahoma.

595:1-19-3. Award design [AMENDED]

(a) The design of the Oklahoma Medal of Valor, ~~for meritorious service and~~ the Oklahoma ~~Purple~~Blue Heart, the Oklahoma Red Heart, and the Oklahoma Meritorious Service Medal for serious line of duty injuries, and any authorized appurtenances proposed by the Adjutant General are obligated to be of a design that is similar in shape, size, color and design to the similar awards presented by the Armed Forces of the United States. Award designs may, at the discretion of the Committee Chair, be reviewed annually for modifications or re-designed. Award designs, and any appurtenances will be initially submitted by the Adjutant General of the State of Oklahoma to the Committee Chair.

(b) Awards may consist of a plaque, trophy, display ribbon, uniform pin, uniform medal, or certificate or proclamation individually or in combination as determined by the OSAP Committee. Award recipients may receive any number of award devices as determined by the OSAP Committee to accommodate both a suitable display device as well as a uniform display device and/or framed certificate if applicable to the recipient. The type, style, and number of award devices are at the discretion of the OSAP Committee.

595:1-19-4. Criteria for eligibility [AMENDED]

(a) The criteria for eligibility to receive the Oklahoma Medal of Valor for meritorious service includes any person, living or deceased, who, while performing a legal act:

(1) demonstrates an extraordinary act of valor; or

(2) demonstrates a distinct act of moral strength; or

(3) demonstrates great personal courage in the face of mortal fear, danger, or difficulty, regardless of their personal safety; and

(4) was actively engaged in public service activities.

(b) The criteria for eligibility to receive the Oklahoma ~~Purple~~Blue Heart for serious line-of-duty injuries includes any law enforcement officer or public safety member, living or deceased, who, while performing a legal act,

(1) suffers a life-threatening injury as determined by the OSAP Committee; or

(2) suffers any injury resulting in a loss of limb, serious body impairment, deformity; loss of life; or

(3) suffers any injury resulting in the public safety member's permanent service-related retirement.

(c) The criteria for eligibility to receive the Oklahoma Red Heart for serious line-of-duty injuries includes any firefighter employed by any city or town in Oklahoma, living or deceased, who, while performing a legal act,

(1) suffers a life-threatening injury as determined by the OSAP Committee; or

(2) suffers any injury resulting in a loss of limb, serious body impairment, deformity, loss of life; or

(3) suffers any injury resulting in the firefighter's permanent service-related retirement.

(d) The criteria for eligibility to receive the Oklahoma Distinguished Meritorious Service Medal for exemplary service to the state, includes any public safety member, living or deceased, who, served the State of Oklahoma in a public safety capacity for an extended period of time, and exhibited:

(1) Professionalism,
(2) Expertise,
(3) Dedication, and
(4) Selflessness.

~~(d)~~(e) Recipients may, at the discretion of the Governor and based on the recommendation of the OSAP Committee, receive more than one award for any specific act that meets the criteria for eligibility.

595:1-19-5. Criteria for proper wear of the Oklahoma Medal of Valor, the Oklahoma ~~Purple~~Blue Heart or the Oklahoma Red Heart, and the Oklahoma Distinguished Meritorious Service Medal [AMENDED]

(a) The proper uniform wear of the Oklahoma Medal of Valor and the Oklahoma ~~Purple~~Blue Heart or the Oklahoma Red Heart will be at the discretion of the recipient's individual public safety agency.
(b) If no agency policy exists, the recipient will wear a uniform medal centered above the right breast pocket or approximate location, at least one (1) inch above the upper seam of the pocket.
(c) Uniform award ribbons will be predominately worn, centered, one-half inch above their right breast pocket or approximate location.
(d) Award medals will be worn by lanyard from the recipient's neck depending on the award or appurtenance design at the time the medal was awarded.
(e) The Medal of Valor will be the predominately displayed award with no other medals, ribbons or awards worn above or to the right of the award.
(f) The ~~Purple~~Blue Heart or the Oklahoma Red Heart will be the predominately displayed award with no other medals, ribbons, or awards worn above or to the right of the award, other than the Medal of Valor.
(g) The Oklahoma Distinguished Meritorious Service Medal will be the predominately displayed awarded with no other medals, ribbons, or awards worn above or to the right of the award, other than the Medal of Valor and the ~~Purple~~Blue Heart or the Oklahoma Red Heart.
(h) Civilian or non-uniformed recipients will wear or display the award or other appurtenances in the manner it was awarded.

595:1-19-6. Method of purchasing the ~~Oklahoma Medal of Valor and the Oklahoma Purple Heart~~State of Oklahoma Awards [AMENDED]

(a) The procurement, cost, and acquisition of the award plaques, ribbons, devices, or other approved appurtenances will be determined by the OSAP Committee from the pool of agencies and organizations represented on the committee.
(b) The OSAP Committee may also receive funds generated from private donations made to any agency of the State of Oklahoma through the authorized gifting process in compliance with Oklahoma Statutes Title 60 O.S. § 381 et seq., for the sole purpose of purchasing awards and appurtenances approved by the Committee.

[OAR Docket #24-685; filed 6-27-24]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 25. WRECKERS AND TOWING SERVICES

[OAR Docket #24-686]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Wrecker License
595:25-3-1. General requirements [AMENDED]
595:25-3-2. Applications [AMENDED]
Subchapter 7. Class AA Operators
595:25-7-1. Equipment requirements for all Class AA vehicles [REVOKED]
Subchapter 9. Oklahoma Highway Patrol Rotation Log - Additional Requirements

595:25-9-1. Oklahoma Highway Patrol Rotation Log [AMENDED]

AUTHORITY:
Department of Public Safety; 47 O.S. § 952

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 22, 2023

COMMENT PERIOD:
January 16, 2024 through February 20, 2024

PUBLIC HEARING:
February 20, 2024

ADOPTION:
March 26, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 28, 2024

LEGISLATIVE APPROVAL:
N/A

LEGISLATIVE DISAPPROVAL:
N/A

APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024

EFFECTIVE:
August 11, 2024

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:
N/A

GUBERNATORIAL APPROVAL:
N/A

REGISTER PUBLICATION:
N/A

DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:
N/A

INCORPORATING RULES:
N/A

AVAILABILITY:
N/A

GIST/ANALYSIS:
The amendments clarify the language surrounding OSBI criminal record checks for owners, operators, and employees of any wrecker or towing company. The amendments revoke a rule that has been considered outdated or duplicative, and cleans up the language for the requirements of the Oklahoma Highway Patrol rotation log.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. WRECKER LICENSE

595:25-3-1. General requirements [AMENDED]

The following are the requirements for obtaining an original or renewal of a wrecker license:

(1) **License required.** No ~~operator as defined by law, regardless of storage location,~~individual shall operate a wrecker vehicle upon any public street, road, or highway of this state for the purpose of offering to tow vehicles or the actual towing of vehicles without first obtaining from the Department a license as provided in this Chapter. Any wrecker vehicle being operated on any public street, road, highway, or turnpike in violation of Oklahoma law, or these rules may be removed from service by Oklahoma law enforcement officers. Provided that this restriction does not apply to any individual towing vehicles owned by the individual or by the entity employing the individual.

(2) **Display and use.** ~~An operator's wrecker service license shall be personal to the holder thereof and a wrecker vehicle license shall be unique to the vehicle. Each license shall be issued only to a person, a corporation, or some definite legal entity. The licenses are non-transferable and any change in ownership, whether of a wrecker service or wrecker vehicle, shall cancel the applicable license. The wrecker service license shall be conspicuously displayed at the primary place of business. The license shall be valid only at the place of business as shown on the license. Additional or satellite places of business shall not be permitted or approved on the same license but shall require a separate application and license.~~A wrecker service license shall be issued only to a definite legal entity. A wrecker service license is non-transferable. The wrecker service license shall be conspicuously displayed at any place of business of the applicable wrecker service. The wrecker service license shall be valid for all places of business provided each place of business complies with the provisions of these rules.

(3) **Issuance.** ~~No license for operation of a wrecker or towing service shall be issued until~~A wrecker service license shall be issued upon the submission of a completed and approved application, provided all the following requirements are met:

(A) ~~The wrecker operator has a minimum of one towing/wrecker vehicle,~~

~~(B) Certificates of insurance as prescribed by the Department~~ The proof of insurance reflecting the minimum coverages for applicable wrecker vehicles are on file with the Department,

~~(C)~~(B) Each wrecker vehicle has been inspected by an officer of the Department to verify that equipment requirements of this Chapter have been met, and

~~(D)~~(C) Each wrecker ~~operator and~~ driver ~~of a wrecker/towing vehicle~~ has successfully completed a minimum of 16 hours of Department approved course of training or have a minimum of 2 years of experience on the following:

(i) Traffic incident management
(ii) Wrecker vehicle recovery controls
(iii) Connecting or loading vehicle onto wrecker
(iv) Tie down and secure vehicle to wrecker
(v) Wrecker operation safety
(vi) Annually complete 4 hours of continuing education approved by the department

(4) **Transfer of ownership.**

(A) When applicable, new corporate officers for a wrecker service must comply with the licensing requirements of these rules.

(B) When applicable, new partners in a wrecker service must comply with the licensing requirements of these rules.

(C) When a complete ownership change occurs the wrecker service license will be cancelled.

~~(4)~~(5) ~~**Carry license**~~**Wrecker vehicle cab card.** A copy of the wrecker vehicle ~~license~~cab card issued by the Department shall be carried at all times in the applicable wrecker vehicle ~~for which the license was issued~~.

~~(5)~~(6) ~~Disposition of wrecker vehicles.~~**Disposition of wrecker vehicles.** ~~Any operator that removes its last remaining wrecker vehicle from operation will have thirty (30) days to have another wrecker vehicle inspected, approved, and licensed or the wrecker license issued to that operator will be cancelled.~~An operator's wrecker service license will be canceled thirty (30) days after the Department receives notice the wrecker service has no inspected, approved, and licensed wrecker vehicles in operation.

~~(6)~~(7) ~~**Additional wreckers**~~**Wrecker vehicles.** ~~Any wrecker operator that adds a~~No wrecker vehicle shall be used to provide wrecker services until:

(A) ~~Register the~~The wrecker vehicle is registered in accordance with the ~~Oklahoma Tax Commission~~rules of Service Oklahoma, in the name of the operator or the name of the wrecker service, and ~~properly display~~ a current license plate is displayed on the wrecker vehicle. A leased wrecker vehicle shall show the owner information and the name of the lessee on the vehicle registration. Additionally, a wrecker license plate or a proportional license plate must be affixed to the wrecker vehicle.

(B) ~~Notify the~~ The Department ~~of~~is provided the make, model, GVW, and serial number of the vehicle. This information may be provided through the proof of insurance.

(C) ~~Send notification to the~~ The Department ~~from the insurance carrier of the wrecker operator that~~ is provided the proof of insurance indicating the vehicle has been added to ~~present~~ the wrecker service's insurance coverage.

(D) ~~Have the~~ The wrecker vehicle is inspected and approved by an employee of the Department.

~~(E) A wrecker license plate, or a proportional license plate, must be purchased and affixed to the wrecker vehicle after the vehicle has been inspected and approved and before the vehicle can be used by the operator to tow vehicles.~~

~~(7)~~(8) **License number and business name.**

(A) The ~~DPS~~wrecker service license number issued ~~to the operator~~ by the Department for the operation of a wrecker or towing service, along with the name of the wrecker service, ~~shall be clearly visible at all times and~~ shall be conspicuously displayed and vertically centered on each side of every ~~tow~~wrecker vehicle used by ~~the operator in~~ the wrecker ~~or towing~~ service. All wrecker services will display AA or G designation at the end of the ~~DPS~~wrecker service license number. Example: DPS 12345W AA or DPS 12345WG.

(B) On each wrecker ~~vehicles~~ vehicle in use, the ~~DPS~~ wrecker service license number and business name shall be at least three inches (3") in height. The font shall not be ~~a font which is~~ highly decorative or difficult to read. The lettering shall be in a color that will contrast with the color of the ~~tow~~ wrecker vehicle in order to be readily noticed and legible.

(C) The signage required by this paragraph shall be permanent in nature and shall not contain any misleading or false information. The wrecker vehicle shall not have more than one wrecker service name on the vehicle and not more than one DPS wrecker license number.

(D) Magnetic signs are not approved; provided, if requested of and approved by the Commissioner or Commissioner's designee, a magnetic sign may be used for a period of thirty (30) days in an emergency situation. The Commissioner or Commissioner's designee may grant an extension beyond the thirty (30) days.

~~(8)~~(9) **Service of notice.** Any notice required by law or by ~~the~~ these rules ~~of the Department served upon any holder of a wrecker or towing license~~ shall be served ~~personally or mailed~~by first class, prepaid U.S. mail to the last known address ~~of such a person~~ as reflected by the records ~~on file with~~ of the Department. It is the duty of every ~~holder of a certificate or license~~wrecker operator, wrecker service, and wrecker driver to notify the Department of Public Safety, Wrecker Services Division, in writing as to any change in the address of such person or of the place of business.

~~(9)~~(10) **License prohibited.**

(A) No person under eighteen (18) years of age shall be licensed or employed as a wrecker ~~operator~~driver.

(B) No person shall be licensed as ~~a~~an ~~wrecker/towing service~~ operator or ~~employee~~wrecker driver, or be employed by a wrecker service who has been convicted of:

(i) a felony offense constituting a violent crime as defined in 57 O.S.§ 571, larceny, or theft~~. Felony convictions expunged through deferred sentencing will not be considered as convictions~~; or

(ii) any provision of Title 21 O.S. §1029 while providing wrecker services; or

(C) No person shall be licensed as ~~a~~an ~~wrecker/towing service~~an operator or wrecker driver, or be employed by a ~~wrecker/towing~~wrecker service until completion of the sentence for the conviction, including probation or supervised release.

(D) Any person who is required to register as a sex offender, as required by 57 O.S. § 582, shall be prohibited from owning or working for a wrecker service for the period of time the person ~~is or~~ is required to be registered.

(E) Nothing in this section prohibits the Commissioner of Public Safety or his or her designee from approving, denying, suspending, cancelling, or not renewing a wrecker license if it is determined to be in the best interest of public safety.

~~(10)~~(11) **One Class AA license per place of business.** ~~Wrecker operators~~An operator shall be issued no more than one Class AA wrecker license for any one place of business.

~~(11)~~(12) **One Class AA wrecker service on Oklahoma Highway Patrol 's rotation log in same rotation area.**~~An operator~~ A licensed wrecker service shall be permitted ~~to rotate~~ no more than one ~~Class AA wrecker service in the same Highway Patrol rotation area on the Highway Patrol 's rotation log~~position on an Oklahoma Highway Patrol rotation log in a designated rotation area. For ~~purposes of this paragraph, "Class A wrecker service" shall include those services with a Class AA-TL wrecker vehicle~~each designated rotation area, the Oklahoma Highway Patrol may maintain a separate rotation log for wrecker services operating Class AA TL wrecker vehicles. A wrecker service must request inclusion on both the Class AA and Class AA TL rotation, if applicable.

~~(12)~~(13) **Business telephone number.** Each wrecker service shall have a telephone number published that is accessible to the public twenty-four hours a day. The ~~operator~~wrecker service shall provide in writing to the Department notice of any permanent business telephone number change prior to the new telephone number being placed in service.

~~(13)~~(14) **Business sign.** Each ~~AA Wrecker Service and each G Wrecker Service with storage shall have a business sign at the business location~~wrecker service shall display a business sign at the principal place of business. If the wrecker service maintains a storage lot at a location other than the principal place of business, the storage lot must also display a business sign. The ~~sign~~signs required by this paragraph shall be at least ~~2~~two feet (2') by ~~4~~four feet (4') with letters at least ~~3~~three inches (3") in height with contrasting background and shall display, at a minimum, the name of the wrecker service as shown on the license and a telephone number accessible to the public twenty-four (24) hours a day.

~~(14)~~(15) **Wrecker drivers.** Wrecker services shall notify the Wrecker Services Division within ten (10) calendar days of hiring or ~~termination of employment~~terminating of any wrecker driver. The wrecker service must submit to the Department, an Oklahoma State Bureau of Investigation criminal records check on wrecker drivers, obtained within ninety (90) calendar days of the hire date of the new wrekcer driver. Notification shall be made by email to wrecker@dps.ok.gov.

595:25-3-2. Applications [AMENDED]

(a) Every ~~applicant shall file with the Department a written application on a form prescribed by the Department and shall tender with the application a fee pursuant to 47 O.S. §953 in the form of check (business, personal, or cashier), or money order. Checks and money orders should be made payable to the Department of Public Safety. The application shall be completed using the applicant's legal name and include every alias and nickname by which the applicant is or has been known. Every applicant shall submit with the application a current original Oklahoma State Bureau of Investigation (O.S.B.I.) criminal record check for each individual, partner or corporate officer as shown on the application. If any owner, partner, or officer has not lived in Oklahoma for the immediately preceding five (5) years, he or she shall submit a criminal record check from the agency responsible for keeping criminal history in the state or states of residence for the immediately preceding five (5) years. Upon the return of any dishonored check the application shall be canceled.~~operator requesting to be licensed as a wrecker service must submit the following:

(1) **Application.** The completed application, as prescribed by the Department.

(2) **Fees.** The fees prescribed by 47 O.S. Section 953 must be tendered in the form of a check (business, personal, or cashier) or money order, made payable to the "Department of Public Safety".

(3) **Criminal record check.** A current Oklahoma State Bureau of Investigation criminal record check for each owner or employee listed on the application. If any individual required to have a criminal record check has not lived in Oklahoma for the immediately preceding five (5) years, a criminal record check from the agency responsible for keeping criminal history in the state, or states, of residence for the immediately preceding five (5) years must be submitted. The criminal records check must be completed within ninety (90) days immediately preceding the submission of the application.

(4) **Liability Insurance.** Proof of valid liability insurance providing protection against loss of life, personal injury, and property damage in amounts prescribed by these rules and covering all wrecker vehicles to be operated by the wrecker service. The policy declaration page shall be deemed sufficient documentation of liability insurance and insurance provided all required information is included.

(5) **Secretary of State Certificate.** If the wrecker service is a corporation or limited liability company (L.L.C.), a copy of the Secretary of State's certificate must be submitted.

(6) **Lease agreement.** If the principal place of business or any storage lot is leased by the wrecker service, a copy of the signed lease must be submitted. The lease must be for a minimum of one (1) year and must be for the same address as shown on the application.

(b) Upon receipt and approval of the application, the Department shall assign to the ~~operator~~wrecker service a permanent identification number for all matters relating to the ~~approved~~licensed wrecker ~~and towing~~ service. ~~The Wrecker Services Inspector/Trooper will issue a contact report for the operator to present to the Oklahoma Tax Commission or a motor license agent for the purpose of being issued a wrecker license plate pursuant to 47 O.S. § 1134.3.~~
(c) The filing of an application for a license does not authorize wrecker ~~or towing~~ service operations by the applicant. ~~Operation~~The provision of wrecker or towing services may commence only after all licensing requirements have been met and proper authorization has been issued by the Department.
(d) ~~The application shall be an affidavit containing the following information together with any additional information the Department may require.~~

~~(1) The trade name (business name) of the wrecker service. If the business name is registered with the Oklahoma Secretary of State, such registered name shall be used. A copy of the Certificate of Limited Liability Company, a Certificate of Authority, a Certificate of Limited Partnership, or a Certificate of Incorporation from the Secretary of State must be submitted with the application.~~
~~(2) The name of the individual (owner/applicant) or, in the event of a legal entity such as a corporation, limited liability company, partnership or limited partnership, the names of any two of the following:~~
~~(A) President,~~
~~(B) Vice-President,~~
~~(C) Another officer, such as Secretary, or the name of the person responsible for the day-to-day operation of the legal entity. The legal entity shall notify DPS immediately in the event any officer or the person responsible should change.~~
~~(3) A statement substantially as follows: "Under oath, I affirm the information submitted in this application is true and I further affirm that I have read the rules of the Department of Public Safety and hereby agree in good faith to abide by the applicable laws and rules governing the wrecker and towing services for which this application is made."~~
~~(4) Date of application.~~
~~(5) Signature of the individual applicant or of each company officer, as named on the application.~~
~~(6) For each driver, the name, date of birth and driver license number.~~
~~(7) If an officer of the Department of Public Safety or a law enforcement officer of any political subdivision may have an interest, financial or otherwise, in or may be employed by a wrecker or towing service, the wrecker service shall affirm that its sole purpose and only business is to perform repossessions of vehicles which are subject to lien and are being repossessed by the lien holder of record, operating as a Class G Wrecker. If a determination is made that the wrecker service performs services other than repossessions, it shall be grounds for revocation of the wrecker license.~~

~~(e)~~ If, within ninety (90) days of receipt of an application, the Department is unable to verify all information as required by these rules, the application shall be denied. Such applicant may reapply.
~~(f)~~(e) ~~It is within the Department's discretion to disallow the licensing of a wrecker operator~~ The Department may deny the original application, or renewal application, of a wrecker service should it appear, by a preponderance of the evidence, ~~that~~ the identity of the business is substantially the same as ~~that of~~ one ~~that is~~ currently under revocation or suspension by the Department.

SUBCHAPTER 7. CLASS AA OPERATORS

595:25-7-1. Equipment requirements for all Class AA vehicles [REVOKED]

~~Each Class AA wrecker vehicle shall be equipped as required by OAC 595:25-5-2.~~

SUBCHAPTER 9. OKLAHOMA HIGHWAY PATROL ROTATION LOG - ADDITIONAL REQUIREMENTS

595:25-9-1. Oklahoma Highway Patrol Rotation Log [AMENDED]

(a) **Official Rotation Log.** The Department of Public Safety maintains two (2) official Oklahoma Highway Patrol Rotation Logs, a Class AA wrecker rotation log and a Class AA-TL wrecker rotation log, each of which shall consist of licensed wrecker services for the performance of services carried out pursuant to the request of or at the direction of any law enforcement officer of the Department [47 O.S. § 72-952 (D)].

(b) **Request for Placement on the Rotation Log.** A licensed Class AA wrecker service desiring to be placed on the Highway Patrol Rotation Log in the Highway Patrol Troop ~~District~~ in which the principal place of business and the primary storage facility of the wrecker service is located shall file a written request with the Department, pursuant to paragraph (e) of this Section. [47 O.S. § 72-952 (D)]

(c) **Assignment to the Rotation Log.** If a request for placement on the Rotation Log is approved by the Department, the wrecker service shall be assigned by the Department to the Highway Patrol Troop ~~District~~ specified on the request. Both the Troop Commander of the Troop ~~District~~ and the wrecker service will be notified by the Department of the assignment of the wrecker service to the Rotation Log.[47 O.S. § 72-952 (D)]

(d) **Call Assignment.** Oklahoma Turnpike Authority rotation log will be determined, for placement on rotation, by using any ~~operator~~ wrecker service business location within ~~10~~ ten (10) road miles of a gate entry to the turnpike. ~~Must~~The wrecker service must be capable ~~to respond~~ of responding promptly to the scene, ~~open~~opening at least one lane promptly, ~~clear~~ and ~~clean~~clearing the incident ~~sight~~site within the shortest time possible. ~~Calls~~To accomodate thse requirements, calls will be assigned to the wrecker service nearest in time or distance to the incident ~~scene for quick clearance~~.

(e) **Geographical Areas of Rotation.** [47 O.S. § 72-955 (C)]

(1) The Commissioner's designee ~~of~~the Wrecker Services Division shall be responsible for establishing geographical areas of rotation within the Troop ~~District~~ to which wrecker services on the ~~District's~~Troop's Rotation Log will be assigned ~~for operation~~ when responding to calls for service from the Rotation Log. The Commissioner's designee shall notify each wrecker service of the geographical area of rotation to which it is assigned.

(2) The Commissioner's designee will establish each geographical area of rotation based upon a reasonable radius from the primary storage facility of each wrecker service operating within the geographical area. The reasonable radius will be determined by the Commissioner's designee based upon:

(A) The estimated time it will take the wrecker service to respond to calls for service,

(B) The number of wrecker services available on the Rotation Log,

(C) Conformity with 47 O.S. § 72-955 (C),

(D) Consideration of the economic impact of the wrecker services rates and fees, as prescribed by the Corporation Commission, on the owner or lien holder of the vehicle; and

(E) Other factors within the Troop ~~District~~ as deemed appropriate by the Commissioner's designee.

(3) The Commissioner's designee may overlap geographical areas of rotation whenever necessary to ensure adequate response to requests for wrecker services.

(4) The Commissioner's designee may modify geographical areas of rotation for the Troop ~~District~~ at any time and for just cause, but shall notify each wrecker service affected of such modifications as soon as practicable ~~each wrecker service affected of such modifications~~.

(5) The Commissioner's designee may extend any geographical area of rotation by a reasonable radius beyond the boundaries of the Troop ~~District~~ to include on the rotation log of the ~~District a wrecker service~~Troop:

(A) Which is located outside of but in proximity to the boundary of the ~~District~~Troop, and

(B) Upon receiving notification from the Department of the approval of the wrecker service for placement on the rotation log for the ~~District~~Troop ~~of~~ by the Commander.

(6) Nothing in this Section shall prohibit the Troop Commander from using the services of any licensed wrecker service:

(A) Outside of its assigned geographical area of rotation, or

(B) Which has not been assigned to the Rotation Log of the Troop ~~District~~.

(f) **Forms.** A request for placement on any rotation log shall be filed by the wrecker service with the Department ~~of Public Safety~~ on a form prescribed and provided by the Department [47 O.S. § 72-952 (D)]. When requesting placement on a rotation log, the wrecker service shall provide on the request one (1) telephone number to be used for request of services during the day and one (1) telephone number to be used for request of services during the night, specifying the time period of normal use; these numbers shall also be on file with the Wrecker Services Division. Any change in the telephone numbers shall be immediately transmitted to:

(1) The Troop Commander(s) of the Oklahoma Highway Patrol Troop ~~District(s)~~ on whose Rotation Log the wrecker service has been assigned, and

(2) The Wrecker Services Division of the Department ~~of Public Safety~~.

(g) **Request for Removal from the Rotation Log.** A licensed Class AA wrecker service desiring to be removed, whether temporarily or permanently, from the Highway Patrol Rotation Log on which it was placed, pursuant to this section, shall file a written request with the Department, in the form and format prescribed by the Department. ~~The wrecker service shall not contact the Troop Commander(s) of the Troop District(s) for removal from the Rotation Log.~~

[OAR Docket #24-686; filed 6-27-24]

TITLE 595. DEPARTMENT OF PUBLIC SAFETY
CHAPTER 35. ENFORCEMENT OF OKLAHOMA MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS TRANSPORTATION ACT

[OAR Docket #24-688]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
595:35-1-5. Applicability [AMENDED]
595:35-1-12. Department of Public Safety port of entry officers [AMENDED]
AUTHORITY:
Department of Public Safety; 47 O.S. § 2-108
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 22, 2023
COMMENT PERIOD:
January 16, 2024 through February 20, 2024
PUBLIC HEARING:
February 20, 2024
ADOPTION:
March 26, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
March 28, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:

The Oklahoma Motor Carrier Safety and Hazardous Materials Transportation Act provides "It is therefore declared to be the policy of the State of Oklahoma to provide regulatory and enforcement authority to the Oklahoma Department of Public Safety to improve safety related aspects of motor carrier transportation and to protect the people against the risk to life and property inherent in the transportation of property, including hazardous materials, over highways and the handling and storage incidental thereto, by keeping such risk to a minimum consistent with technical feasibility and economic reasonableness and to provide uniform regulation of intrastate transportation of property, including hazardous materials, consistent with federal regulation of interstate transportation." 47 O.S. § 230.2(B). The purpose of this rule is to conform the existing rule to the legislative policy of the State of having "uniform regulation of intrastate transportation of property, including hazardous materials, consistent with federal regulation of interstate transportation." Additionally, the rules clarify the authority of the Commissioner of Public Safety to direct the duties and assignments of Department of Public Safety port of entry officers.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

595:35-1-5. Applicability [AMENDED]

(a) The hazardous materials regulations found in 49 CFR Parts 107, 171, 172, 173, 177, 178, and 180 are applicable to:

(1) Motor carriers and their agents, employees, or representatives currently subject to the federal regulations regarding the transportation of hazardous materials.

(2) Motor carriers and their agents, employees and representatives participating in intrastate commerce transporting hazardous materials.

(3) Hazardous materials shippers who offer or ship hazardous materials in intrastate commerce.

(b) ~~The~~Except as provided by 47 O.S. § 230.15, the motor carrier safety regulations found in 49 CFR Parts 40, 382, 383, 385, 386, and 390 through 397 are applicable to:

(1) Motor carriers and their agents, employees, or representatives participating in interstate commerce who are currently subject to the federal regulations concerning motor carrier safety indicated by 49 CFR §390.1.

(2) Motor carriers and their agents, employees and representatives participating in intrastate commerce~~.~~and:

(A) Using a vehicle or vehicles with~~:~~

~~(i) a gross vehicle weight rating or a gross combination weight rating in excess of 26,000 pounds, or~~

~~(ii) a gross vehicle weight or gross combination weight in excess of 26,000 pounds~~a weight rating or gross combination weight rating, or gross vehicle weight or gross combination vehicle weight of ten thousand one (10,001) pounds or more, whichever is greater; or.

(B) Using a vehicle designed to transport more than 8 passengers, including the driver, for compensation~~.~~; or

(C) Using a vehicle designed to transport more than 15 passengers, including the driver, but which is not used to transport passengers for compensation~~.~~; or

(D) Using a vehicle in the transportation of hazardous material in a quantity requiring placarding as per 49 CFR Part 172 Subpart F.

595:35-1-12. Department of Public Safety port of entry officers [AMENDED]

(a) Department of Public Safety port of entry officers (DPS POE officers) are DPS commissioned inspectors or DPS civilian inspectors assigned to Troop S to work only at and around port of entry locations. See generally 47 O.S. § 14-116.

(b) In accordance with 47 O.S. §2-117 any officer designated and commissioned by the Commissioner is declared to be a peace officer of the State of Oklahoma and shall be so deemed and taken in all courts having jurisdiction of offenses against the laws of the state.

(c) The Commissioner shall designate and commission DPS POE officers. The Commissioner may also appoint civilian DPS POE officers. All DPS POE officers shall only be assigned to and supervised by Troop S.

(d) The Commissioner has the authority to authorize any officer, employee, or agent of the Department to conduct the activities necessary to administer the Act. See 47 O.S. § 230.4.

(e) Commissioned DPS POE officers shall have the powers and authority now and hereafter vested by law in other peace officers, including the right and power of search and seizure, except the serving or execution of civil process, and the right and power to investigate and prevent crime and to enforce the criminal laws of this state. However, the duties of the DPS POE officers and civilian DPS POE officers shall be limited to:

(1) Enforce all or any portions of the federal motor carrier safety regulations and the hazardous materials regulations of the United States Department of Transportation, as now or hereafter amended, as adopted by reference;
(2) Conduct investigations; make reports; require the production of relevant documents, records and property; demonstration and training activities;
(3) Enter upon, inspect and examine at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties relate to motor carrier safety or the transportation or shipment of hazardous materials in commerce, and to inspect and copy records and papers of carriers and other persons to carry out the purposes of the Act;
(4) Stop and inspect any driver or commercial motor vehicle for any violation of the Act or rules and regulations issued pursuant thereto;
(5) Declare and mark any transport vehicle or container as out of service if its condition, filling, equipment or protective devices would be hazardous to life or property during transportation, or if records thereof reflect such hazard, or if required records are incomplete;
(6) Prohibit any commercial driver from transporting hazardous materials if such driver is unqualified or disqualified under any federal or department regulation;
(7) Declare or mark any driver, vehicle or container out of service pursuant to the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria;
(8) Administer and enforce the provisions of the Act and any rules and regulations issued pursuant thereto;
(9) Exercise all power and authority vested by law in other peace officers regarding law violations committed in the presence of the commissioned DPS POE officer at and around port of entry locations.
(10) Perform other law enforcement duties within the state as prescribed by the Commissioner or the Commissioner's designee.,

(f) All commissioned DPS POE officers shall be CLEET certified peace officers. To become qualified for designation as peace officers, DPS POE officers shall meet the training and screening requirements conducted by the Department and certified by the Council on Law Enforcement Education and Training within six (6) months of employment.
(g) Only CLEET certified peace officers shall carry a weapon.
(h) DPS POE officers are not and shall not be considered Oklahoma Highway Patrol Troopers.
(i) The powers and duties conferred upon said commissioned DPS POE officers shall in no way limit the powers and duties of sheriffs or other peace officers of the state, or any political subdivision thereof.
(j) No state official, other than members of the Department, shall have any power, right, or authority to command, order, or direct any DPS POE officer to perform any duty or service. DPS POE officers shall not be commanded, ordered, or directed to perform any duty or service outside the limitations of (e).

[OAR Docket #24-688; filed 6-27-24]

TITLE 605. OKLAHOMA REAL ESTATE COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #24-695]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
605:1-1-4. Operational procedures [AMENDED]
AUTHORITY:
Oklahoma Real Estate Commission; 59 O.S., § 858-208.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 21, 2023
COMMENT PERIOD:

January 16, 2024 through February 20, 2024
PUBLIC HEARING:
February 21, 2024
ADOPTION:
February 21, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 29, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
November 1, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amendments to Chapter 1 modify Contract Forms Committee membership, simplify Committee member term lengths, and change the processes for licensee and applicant data extract requests.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF NOVEMBER 1, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

605:1-1-4. Operational procedures [AMENDED]
(a) **Organization.** The organization of the Commission is declared to be that as enumerated in Sections 858-201 through 858-204 of the heretofore described Code.
(b) **Operational procedures.** The general course and method of operation shall be as hereinafter specified in overall provisions of the rules of this Title.
(c) **Open Records Act.** In conformance with Title 51, Section 24 A.1., et seq, Oklahoma Statutes, 1985, titled "Oklahoma Open Records Act" all open records of the Real Estate Commission may be inspected and copied in accordance with procedures, policies, and fee as required by the Commission. The Commission shall charge the following:
(1) A fee of $.25 for each xerographic copy or micrographic image.
(2) A fee of $1.00 for each copy to be certified.

(3) A fee of $10.00 per hour for a record or file search.
(4) A fee of ~~Forty Dollars ($40.00)~~Fifty Dollars ($50.00) per extract for License Data extract.
(5) A fee of ~~Fifty Dollars ($50.00)~~Twenty-Five Dollars ($25.00) every three (3) months for an Examinee Data extract.
(6) A fee of no more than Seven Dollars and Fifty Cents ($7.50) for a convenience fee for any electronic/on-line transaction.

(d) **Petition for promulgation, amendment or repeal of any rule.** Any person may petition the Commission in writing requesting a promulgation, amendment or repeal of any rule.

(1) The petition must be in writing in business letter form or in the form of petitions used in civil cases in this State, and shall contain an explanation and the implications of the request and shall be:

(A) Signed by the person filing the petition and be filed with the Secretary-Treasurer of the Commission.
(B) Submitted to the Commission at least thirty (30) days prior to a regular meeting.
(C) Considered by the Commission at its first meeting following such thirty (30) days.
(D) Scheduled for a public hearing before the Commission within sixty (60) days after being considered by the Commission in a regular meeting.

(2) Within sixty (60) days after the public hearing, the Commission shall either grant or deny the petition. If the petition is granted, the Commission shall immediately begin the procedure for the promulgation, amendment or repeal of any rule pursuant to Title 75 O.S. 303.
(3) If the petition is denied the parties retain their rights under 75 O.S. Sec. 318, to proper Judicial Review.

(e) **Petition for declaratory ruling of any rule or order.**

(1) Any person may petition the Commission for a declaratory ruling as authorized by Section 307 of Title 75 of the Oklahoma Statutes as to the applicability of any rule or order of the Commission. Such petition shall:

(A) be in writing;
(B) be signed by the person seeking the ruling;
(C) state the rule or order involved;
(D) contain a brief statement of facts to which the ruling shall apply; and
(E) if known and available to petitioner, include citations of legal authority in support of such views.

(2) The Commission shall have at least thirty (30) days to review the petition. Following the review period, the Commission shall consider the petition at its next meeting.
(3) The Commission may compel the production of testimony and evidence necessary to make its declaratory ruling.
(4) Declaratory rulings shall be available for review by the public at the Commission office.

(f) **Contract Forms Committee.**

(1) The Contract Forms Committee is required to draft and revise real estate purchase and/or lease contracts and any related addenda for standardization and use by real estate licensees (Title 59 O.S. 858-208 {14}).
(2) The committee shall consist of ~~eleven (11) members~~thirteen (13) members. ~~Three (3)~~Five (5) members shall be appointed by the Oklahoma Real Estate Commission; three (3) members shall be appointed by the Oklahoma Bar Association; and five (5) members shall be appointed by the Oklahoma Association of Realtors, Incorporated.
(3) ~~The initial members' terms shall begin upon development of the forms and eachmember shall serve through the effective date of implementation of form(s) plus one (1) year. Thereafter, the Oklahoma Real Estate Commission shall appoint one (1) member for one (1) year, one (1) member for two (2) years, and one (1) member for three (3) years; the Oklahoma Bar Association shall appoint one (1) member for one (1) year, one (1) member for two (2) years, and one (1) member for three (3) years and; the Oklahoma Association of Realtors, Incorporated shall appoint two (2) members for one (1) year, two (2) members for two (2) years, and one (1) member for three (3) years. Thereafter, terms~~ Terms shall be for three (3) years and each member shall serve until their term expires and their successor has been appointed. Any vacancy which may occur in the membership of the committee shall be filled by the appropriate appointing entity.
(4) A member can be removed for just cause by the committee or by quorum vote of Commissioners~~ on the Commission~~.
(5) Each member of the committee shall be entitled to receive travel expenses essential to the performance of the duties of his appointment, as provided in the State Travel Reimbursement Act.
(6) Each member of the committee who satisfies the minimum participation requirements shall be entitled to receive continuing education credit for the following courses:

(A) Contracts

(B) Code and Rules

(g) **Oklahoma Education and Recovery Fund.** If a special levy is assessed on licensees as outlined in Title 59 O.S. 858-604 (E), the levy must be paid within sixty (60) days of assessment or the license will be placed on inactive status and shall not be placed on active status until the levy is paid.

[OAR Docket #24-695; filed 6-27-24]

TITLE 605. OKLAHOMA REAL ESTATE COMMISSION
CHAPTER 10. REQUIREMENTS, STANDARDS, AND PROCEDURES

[OAR Docket #24-697]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

605:10-1-2. Definitions [AMENDED]

605:10-1-4. Returned checks - disposition [REVOKED]

Subchapter 3. Education and Examination Requirements

605:10-3-1. Prelicense education requirements [AMENDED]

605:10-3-2. Application for license [AMENDED]

605:10-3-3. Proceedings upon application for a license [AMENDED]

605:10-3-4. Broker applicant; experience [REVOKED]

605:10-3-4.1. Broker associate applicant; experience [REVOKED]

605:10-3-5. Examinations [AMENDED]

605:10-3-6. Continuing education requirement [AMENDED]

605:10-3-7. Provisional sales associate post-license education requirement [AMENDED]

Subchapter 5. Instructor and Entity Requirements and Standards

605:10-5-1. Approval of pre-license course [AMENDED]

605:10-5-1.1. Approval of a post-license course [AMENDED]

605:10-5-2. Approval of a continuing education course [AMENDED]

605:10-5-3. Standards for Commission approved real estate courses [AMENDED]

605:10-5-4. Education Provider Applications and Renewals [NEW]

Subchapter 7. Licensing Procedures and Options

605:10-7-1. License issuance [AMENDED]

605:10-7-1.1. Documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [AMENDED]

605:10-7-2. License terms and fees; renewals; reinstatements [AMENDED]

605:10-7-5. Name changes [AMENDED]

605:10-7-6. Certification of license history and letters of good standing [AMENDED]

605:10-7-7. Branch offices [AMENDED]

605:10-7-8. ~~Corporation and Association~~Business Entity licensing procedures and requirements of good standing [AMENDED]

605:10-7-8.1. Partnership licensing procedures and requirements of good standing [AMENDED]

605:10-7-8.3. Sole Proprietor licensing procedures [AMENDED]

605:10-7-8.4. Corporations or ~~Associations~~Limited Liability Companies formed for the purpose of receiving compensation [AMENDED]

605:10-7-9. Nonresident licensing [AMENDED]

605:10-7-10. Resident applicants currently or previously licensed in other jurisdictions [AMENDED]

605:10-7-11. Applicant criminal history [AMENDED]

Subchapter 9. Broker's Operational Procedures

605:10-9-3. Trade names [AMENDED]

605:10-9-3.2. Team registration and fees [AMENDED]

605:10-9-4. Advertising [AMENDED]

605:10-9-6. Death or disability of broker [AMENDED]

605:10-9-8. Branch office closing instructions [AMENDED]
Subchapter 11. Associate's Licensing Procedures
605:10-11-2. Associate licenses [AMENDED]
Subchapter 13. Trust Account Procedures
605:10-13-1. Duty to account; broker [AMENDED]
Subchapter 15. Disclosures, Brokerage Services and Statute of Frauds
605:10-15-1. Disclosure of beneficial interest or referrals [AMENDED]
605:10-15-2. Broker Relationships ~~Act to become effective November 1, 2013~~ [AMENDED]
605:10-15-4. Residential Property Condition Disclosure Act forms [AMENDED]
Subchapter 17. Causes for Investigation; Hearing Process; Prohibited Acts; Discipline
605:10-17-1.1. Definitions [NEW]
605:10-17-2. Complaint procedures [AMENDED]
605:10-17-3. Complaint hearings; notice and procedures [AMENDED]
605:10-17-4. Prohibited dealings [AMENDED]

AUTHORITY:
Oklahoma Real Estate Commission; 59 O.S., § 858-208.
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N/A
LEGISLATIVE DISAPPROVAL:
N/A
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N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:

The amendments to Chapter 10: (1) provide clarity to definitions involving various business entities, (2) remove fees and processes regarding returned checks, (3) remove unnecessary language regarding effective dates, (4) simplify the type of entities that may apply to become an education provider, (5) remove redundant or unnecessary rules, (6) clarify that licensees may elect to take approved hybrid courses, (7) clarify that an application for licensure is valid for one (1) year, (8) modify the pre-license and post-license approval and renewal requirements, (9) modify the pre-license, post-license and continuing education instructor approval and renewal requirements, (10) modify the education provider approval and renewal requirements, (11) modify the approval and renewal requirements for proprietor brokers, (12) remove unnecessary processes for national criminal history checks, (13) remove unnecessary language regarding effective dates, (14) remove unnecessary group fees, (15) expand documents available for request, (16) simply processes for business entity compliance, (17) clarify the registration of entities created for the sole purpose of receiving commissions, (18) increase approval requirements for non-Oklahoma residents brokers, simplify process for applicants moving residency to Oklahoma, (19) clarify the denial process for names registered for the purpose of advertising, (20) clarify the process for entities to maintain or close brokerage at broker death or cessation, (21) simplify the process to transfer an associate, (22) clarify the requirements of trust accounts opened in the name of the brokerage, (23) clarify the types of services or products that require disclosure of familial or beneficial interest, (24) remove unnecessary language related to effective dates, (25) clarify investigative and formal hearing process, and (26) remove notary requirements for documents related to the complaint process.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF NOVEMBER 1, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

605:10-1-2. Definitions [AMENDED]

When used in this Chapter, masculine words shall include the feminine and neuter, and the singular includes the plural. The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Advertising" means all forms of representation, promotion and solicitation disseminated in any manner and by any means of communication, to include social networking, to consumers for any purpose related to licensed real estate activity.

"Bona fide offer" means an offer in writing.

"Branch office" means an extension of a broker's main office location and normally is located at a different location than the main office. A branch office shall not be independently owned by any person other than the applicable broker or entity.

"Branch ~~office~~ broker" means a person who qualified for a broker license and who is designated by a broker manager or proprietor broker to direct and supervise a branch office on behalf of the broker in conformance with Section 858-310 of the Code. A branch ~~office~~broker is considered an associate of a broker manager or proprietor broker.

"Broker" means a sole proprietor, corporation, managing corporate broker of a corporation, association, managing broker member or manager of an association, partnership, or managing partners of a partnership and shall be one and the same as defined as a broker in Section 858-102 of the Code and whom the Commission shall hold responsible for all actions of associates who are assigned to said broker.

"Code" when used in the rules of this Chapter, means Title 59, Section 858-101 et seq, Oklahoma Statutes as adopted 1974 and amended.

"Entity" means association, corporation, limited liability company, and partnership.

"Filed" means the date of the United States postal service postmark or the date personal delivery is made to the Commission office.

"Firm" means a sole proprietor, corporation, limited liability company, association or partnership.

"Inactive status" means a period in which a licensee is prohibited from performing activities which require an active license.

"Nonresident" means a person who is licensed to practice in this state, however, does not maintain a place of business in this state but maintains a place of business in another state and who periodically comes to this state to operate and perform real estate activities.

"Previously licensed applicant" means a person who has been licensed in another state and desires to obtain a resident license in this state.

"Provisional sales associate" shall be synonymous in meaning with sales associate except where it is specifically addressed in Subchapters 3, 5 and 7 of this Chapter.

"Rents" or **"leases real estate"** as referenced in Title 59, Section 858-102, subparagraph 2, means the licensed activities provided by a broker through a property management agreement with a party for a fee, commission or other valuable consideration, or with the intention or expectation of receiving or collecting a fee, commission or other valuable consideration. Licensed property management activities may include, but shall not be limited to, showing real property for rent or lease; soliciting tenants and landlords; negotiating on behalf of the tenant or landlord; and complying with and maintaining the property in accordance with Title 41, Oklahoma Statutes, Non-Residential/Residential Landlord and Tenant Acts.

"Resident" means a person who is licensed in this state and operates from a place of business in this state.

"Sole proprietor" means a broker who is the sole owner of a real estate business.

"Team name" means a name used by a team as defined in Section 858-305 of the Code. All team names must be approved by the broker and must be registered with the Commission.

"Trade name" means the name a firm is to be known as and which is used in advertising by the firm to promote and generate publicity for the firm. A firm may or may not do business in the name under which their license is issued but must register with the Commission all trade names used by the firm.

605:10-1-4. Returned checks - disposition [REVOKED]

~~(a) All fees are received subject to collection. Payment of a fee to the Commission with a dishonored check may be prima facie evidence of a violation of Title 59, Section 858-312.~~

~~(b) If the Commission receives a check that is dishonored upon presentation to the bank on which the check is drawn, a returned check fee of Thirty-five Dollars ($35.00) will be charged. If such payment is for fees, or other amounts due the Commission, and the check is not replaced within the specified time frame as determined by the Commission, such request shall be deemed incomplete and the transaction null and void.~~

~~(c) Other services may be delayed or denied if a check is dishonored upon presentation to the bank on which the check is drawn.~~

SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

605:10-3-1. Prelicense education requirements [AMENDED]

(a) **Subject Content.**~~On and after July 1, 1993, as evidence of an applicant's having satisfactorily completed those education requirements as set forth in Sections 858-302 and 858-303 of the Code, each~~Each applicant for licensure shall present with ~~his or her~~ their application a certification showing successful completion of the applicable course of study approved by the Commission as follows:

(1) To qualify an applicant for examination and licensure as a provisional sales associate, the course shall consist of at least ninety (90) clock hours of instruction or its equivalent as determined by the Commission. In order for a provisional sales associate to obtain a sales associate license, the provisional sales associate must, following issuance of a provisional license, complete additional education as required in Section 858-302 of the Code. The pre-license course of study shall be referred to as the Basic Course of Real Estate, Part I of II and shall encompass the following areas of study:

(A) Real Estate Economics and Marketing
(B) Nature of Real Estate
(C) Rights and Interest in Real Estate
(D) Legal Descriptions
(E) Title Search, Encumbrances, and Land Use Control
(F) Transfer of Rights
(G) Service Contracts
(H) Estimating Transaction Expenses
(I) Value and Appraisal
(J) Marketing Activities
(K) Fair Housing
(L) Contract Law Overview
(M) Contract Law and Performance

(N) Offers and Purchase Contracts
(O) Financing Real Estate
(P) Closing a Transaction
(Q) Regulations Affecting Real Estate
(R) Disclosures and Environmental Issues
(S) Property Management and Leasing
(T) Risk Management
(U) Professional Standards of Conduct
(V) Law of Agency

(2) To qualify an applicant for examination and licensure as a broker or a broker associate, the course shall consist of at least ninety (90) clock hours of instruction or its equivalent as determined by the Commission. Such course of study shall be referred to as the Advanced Course in Real Estate and shall encompass the following areas of study:

(A) Laws and Rules Affecting Real Estate Practice
(B) Broker Supervision
(C) Establishing a Real Estate Office
(D) Professional Development
(E) Business, Financial, and Brokerage Management
(F) Oklahoma Broker Relationships
(G) Anti-Trust and Deceptive Trade
(H) Risk Management and Insurance
(I) Mandated Disclosures, Hazards, and Zoning
(J) Real Estate Financing
(K) Specialized Property Operations and Specialty Areas
(L) Trust Accounts and Trust Funds
(M) Closing a Real Estate Transaction
(N) Closing Statements
(O) Professional Standards of Conduct
(P) Property Ownership
(Q) Land Use Controls and Regulations
(R) Valuation and Market Analysis
(S) Law of Agency
(T) Contracts
(U) Transfer of Property
(V) Practice of Real Estate
(W) Real Estate Calculations

~~(b) **Equivalent Course Content.** As evidence of an applicant's having successfully completed those education requirements as set forth in Section 858-304 of the Code, each applicant shall present a certified transcript from an institution of higher education, accredited by the Oklahoma State Regents for Higher Education or the corresponding accrediting agency of another jurisdiction.~~

~~(1) The basic course of real estate shall be limited to Basic Real Estate Principles and Practices; provided, however, that a course or combination of courses not so titled may be accepted if the course content has been determined by the Commission to be equivalent as one and the same as enumerated in this Section.~~

~~(2) The advanced course of real estate shall be limited to Advanced Real Estate Principles and Practices; provided that a course or combination of courses not so titled may be accepted if the course content has been determined by the Commission to be equivalent as one and the same as that enumerated in this Section.~~

~~(3) The Commission shall accept in lieu of a certified transcript a course completion certificate as prescribed by the Commission.~~

~~(c)~~(b) **Entities allowed to seek approval.** The education courses required of this Section shall be satisfied by courses approved by the Commission and offered by~~:~~ an education provider approved by the Commission.

~~(1) The Commission~~
~~(2) An area vocational-technical school~~
~~(3) A college or university~~
~~(4) A private school~~
~~(5) The Oklahoma Association of Realtors, the National Association of Realtors, or any affiliate thereof,~~
~~(6) The Oklahoma Bar Association, American Bar Association, or any affiliate thereof, or~~

~~(7) An education provider.~~

~~(d)~~(c) **Attendance and successful completion required for ~~in-class~~ credit.** To complete any in-class offering, a person must physically be present during all of the in-class offering time and successfully complete all course requirements to include an examination.

~~(c)~~(d) **Successful completion of materials and examination required for distance education credit.** To complete a distance education course offering, a person must successfully complete all course requirements to include all modules and an examination.

605:10-3-2. Application for license [AMENDED]

(a) **Requirements for completing application.**

(1) Any person seeking a real estate license shall make application for such license on a form provided by the Commission. The form shall contain, but not be limited to, the following:

(A) Legal name to include first, middle and last name.
(B) Routine biographical information.
(C) License history in Oklahoma and other states.
(D) Criminal and/or civil charges or convictions~~, including bankruptcy~~ and judgments.
(E) Compliance with Title 59 O.S. 858.301.1 regarding felony convictions.
(F) Birth date.
(G) Evidence of successful completion of course requirement as specified in the "Code".
(H) If applicable, evidence of transaction experience as specified in the "Code."
(I) If applicable, evidence of successful completion of the Broker in Charge course.
(J) A sworn statement as to accuracy of the application information.
(K) Documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
(L) Social security number, pursuant to Title 56, Oklahoma Statutes, Section 240.21A.
(M) Submit to a national criminal history record check, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes. A fee amount, ~~not to exceed sixty dollars ($60.00),~~as specified on the Commission website and application for licensure, shall be sent to the Commission to begin the process of the national criminal history check.

~~(i)~~ A completed national criminal history record check, completed for the Commission, shall be valid for six (6) months from the date of issuance from the issuing authority.
~~(ii) In the event an applicant is not physically able to submit to finger printing, other applicant identifiers shall be utilized, i.e., name, birth date and social security number.~~

(2) An applicant indicating ~~a bankruptcy or judgment,~~ criminal and/or civil charges or convictions on the application, must submit with the application official documents to the Commission which pertain to the disposition of the matter. If official documents are unable to be obtained, a detailed letter explaining the matter(s) must be attached to the application.

(b) **Applicant shall appear for examination.** Each applicant shall appear for an examination as soon as possible subsequent to the filing of an approved application or the signing of a form as required in 605:10-3-3. Each applicant shall allow a photograph to be taken of them at the time they take their real estate examination.

(c) **Application Fee.** A one-time application processing fee of Thirty Five Dollars ($35.00) shall accompany all applications for original licensure.

605:10-3-3. Proceedings upon application for a license [AMENDED]

(a) **Qualified application.**

(1) **Approved application.** If the Commission is of the opinion that an applicant for license is qualified, the application ~~shall~~ may be approved. An approved application shall be valid for ~~ninety (90) days.~~one (1) year.

(2) **Denial of application.** If, from the application filed, or from answers to inquiries, or from complaints or information received, or from investigation, it shall appear to the Commission the applicant is not qualified at any time before the initial license is issued, the Commission shall refuse to approve the application and shall give notice of that fact to the applicant within fifteen (15) days after its ruling, order or decision.

(b) **Appeal of denial of application.** Upon written request from the applicant, filed within thirty (30) days after receipt of such notice of denial, the Commission shall set the matter for hearing to be conducted within sixty (60) days after receipt of the applicant's request.

(c) **Applicant hearing.** The hearing shall be at the time and place as prescribed by the Commission. At least ten (10) days prior to the date set for hearing the Commission shall notify the applicant and other persons protesting, and shall set forth in a notice the reason or reasons why the Commission refused to accept or approve the application. The written notice of the hearing may be served by personal delivery to the applicant and protesters, or by mailing the same by registered or certified mail to the last known address of the applicant and/or protesters.
(d) **Hearing procedures.** The hearing procedure shall be that as outlined in 605:10-1-3 titled "Appeal of administrative decisions; procedures."

605:10-3-4. Broker applicant; experience [REVOKED]
~~(a) No individual shall be licensed as a real estate broker unless in addition to the other requirements in the Code, he or she has served two (2) active years, or its equivalent, as a licensed real estate sales associate and/or broker associate, with and under the instructions and guidance of a licensed real estate broker of this state or any other state at least twenty-four (24) months within the five (5) year period immediately prior to the filing of his or her application for license as a real estate broker in Oklahoma. Additionally, no individual shall be licensed as a real estate broker unless he or she can provide documentation verifying ten real estate transactions as defined in Section 858-303 of the Code within the past five years, or the equivalent thereof, as determined by the Commission. Such documentation shall be demonstrated on forms developed by the Commission.~~
~~(b) An application submitted for the purpose of seeking a license to function as a real estate broker shall not be accepted for filing by the Commission unless such applicant has completed the two (2) year licensure requirement on or before the date such application is submitted.~~

605:10-3-4.1. Broker associate applicant; experience [REVOKED]
~~(a) No individual shall be licensed as a real estate broker associate unless in addition to the other requirements in the Code, he or she has served two years, or its equivalent, as a licensed real estate provisional sales associate and/or sales associate, with and under the instructions and guidance of a licensed real estate broker of this state or any other state at least twenty-four (24) months within the five (5) year period immediately prior to the filing of his or her application for license as a real estate broker associate in Oklahoma.~~
~~(b) An application submitted for the purpose of seeking a license to function as a real estate broker associate shall not be accepted for filing by the Commission until such applicant has completed the two (2) year licensure requirement on or before the date such application is submitted.~~

605:10-3-5. Examinations [AMENDED]
(a) **Applicant must appear in person.** When an application for examination has been submitted to the Commission, the applicant shall be required to appear ~~in person~~, at a time and place to be designated by the Commission, and answer questions based on the required subject matter as prescribed elsewhere in the rules of this Chapter. All examination fees shall be established by the Commission in conjunction with any examination vendor selected by the Commission. Examination fees shall be published on the Commission website.
(b) **Special Accommodations.** In cases where special accommodations are necessary under the requirements of the Americans with Disabilities Act, applicants must notify the examination supplier in advance by submitting a written request, describing the disability and necessary accommodations.
(c) **Failure to pass examination.** If an applicant fails to pass the examination prescribed by the Commission, the Commission may permit subsequent examinations upon receipt of a new examination fee for each examination to be attempted.
(d) **Applicant request to view failed examination.** An applicant who fails the examination has the option of reviewing their missed questions at the end of their examination. An applicant may challenge the validity of any question(s) they identify as incorrectly graded. A challenge to a question that pertains to the Oklahoma law portion of the examination will be sent to the Commission by the examination supplier. A challenge to a question that pertains to the national portion will fall under the review policy of the examination supplier. In either case, both the examination supplier and/or the Commission shall have five (5) business days in which to review and issue a response to the applicant. Applicants will be allowed up to one (1) hour to review their exam and the applicant will not be allowed to test on the same day they review a failed examination. No notes, pencils, or electronic devices will be allowed during a review nor will they be allowed to leave the examination area with the examination questions.
(e) **Application valid for one year.** The original examination application shall be valid for one (1) year from date of filing. After such date, an applicant must complete a new original application form.

(f) **Passing percentile of examination.** A score of seventy-five percent (75%) or more shall be considered a passing grade on the broker examination. A score of seventy percent (70%) or more shall be considered a passing grade on the provisional sales associate/sales associate examination.
(g) **Validity period of examination results.** The results of an examination wherein an applicant scored a passing grade shall be valid for one (1) year from the date of such examination.
~~(h) **Disciplinary examination fee.** A fee shall be charged for an examination which is directed by Order of the Commission as disciplinary action.~~
~~(i)~~(h) **Examination voided.** A licensee or instructor applicant caught cheating during the course of a real estate examination shall:
(1) immediately forfeit the examination and receive a failing score,
(2) be disqualified from retaking the examination for one year, and
(3) must re-apply as an original applicant for any future application submitted after the one year ban
(4) applicants impacted by this section are allowed to file an appeal with the Commission under Rule 605:10-1-3.

605:10-3-6. Continuing education requirement [AMENDED]
(a) **Definition.** Continuing education shall be defined as any real estate oriented education course or equivalent, hereinafter called offering(s) intended:
(1) To improve the knowledge of licensees.
(2) To keep licensees abreast of changing real estate practices and laws.
(3) To help licensees meet the statutory requirements for license renewal.
(b) **Purpose.** The purpose of continuing education is to provide an educational program through which real estate licensees can continually become more competent and remain qualified to engage in real estate activities for which they are licensed. Such activities involve facts and concepts about which licensees must be knowledgeable in order to safely and confidently conduct real estate negotiations and transactions in the public's best interest.
(c) **Goals.** The goals of continuing education are:
(1) To provide licensees with opportunity for obtaining necessary current information and knowledge which will enable them to conduct real estate negotiations and transactions in a legal and professional manner in order to better protect public interest.
(2) To assure that the licensees are provided with current information regarding new and/or changing laws and regulations which affect the real estate business.
(3) To ensure that the consumers interest is protected from unknowledgeable licensees.
(d) **Objectives.** The objectives of continued education are as follows:
(1) For licensees to expand and enhance their knowledge and expertise so as to be continually effective, competent, and ethical as they practice real estate.
(2) For licensees to review and update their knowledge of federal, state and local laws and regulations which affect real estate practices.
(e) **Entities allowed to seek approval.** The Commission may approve and/or accept any offering provided by an entity which meets the purposes, goals, and objectives of the continuing education requirement. The Commission may accept the following offerings as proof of meeting the continuing education requirement:
(1) Any offering which is approved and presented by those entities enumerated in paragraph B, of 858- 307.2 of the "Code".
(2) Any offering in real estate, or directly related area, approved and/or accepted by the real estate regulatory agency in another state; provided such offering is not excluded elsewhere in this Chapter.
(3) Any offering in real estate, or directly related area, not accepted in paragraphs (1) or (2) of this subsection, which ~~can be determined by~~ the Commission determines to be in compliance with the ~~intent of the~~ rules of this Chapter.
(4) Completion of an approved ninety (90) hour prelicense broker course or an approved forty-five (45) hour provisional sales associate postlicense course, or its respective equivalent as determined by the Commission shall suffice for ~~21-hours~~thirty (30) hours of continuing education credit for a licensee. An individual segment of an approved prelicense broker course or an approved provisional sales associate postlicense course shall suffice for continuing education credit provided such individual segment has also been separately approved for continuing education credit.
(f) **Ineligible courses.**
(1) The following offerings will not be considered by the Commission to meet continuing education requirements:
(A) General training or education not directly related to real estate or real estate practices.

(B) Offerings in mechanical office and business skills such as typing, speed reading, memory improvement, report writing, and personal motivation that is not directly related to real estate.
(C) Sales promotion or other meetings held in conjunction with the general real estate brokerage business.
(D) Meetings which are a normal part of in-house training.
(E) That portion of any offering devoted to breakfast, luncheon, dinner, or other refreshments.
(F) Prelicense general training and education to obtain a provisional sales associate or sales associate license or license examination refresher courses for provisional sales associate/sales associate or broker.

(2) The list in (1) of this subsection does not limit the Commission's authority to disapprove any offering which fails to meet the adopted purposes, goals and objectives.

~~(g) **List of approved entities.** The Commission shall maintain a list of approved entities.~~

~~(h)~~(g) **Licensee responsible for notification to Commission.** Each licensee shall ~~be~~ ultimately be responsible ~~to the Commission to furnish~~for furnishing evidence of ~~having~~ successfully ~~completed~~completing the continuing education requirements for license renewal, activation, or reinstatement, to the Commission as set forth elsewhere in this Chapter. Each licensee shall present to the Commission evidence of completion of a minimum of ~~twenty-one (21)~~thirty (30) clock hours of continuing education offerings acceptable by the Commission. As evidence of ~~having completed~~completing the requirement, each licensee shall present:

(1) A certificate, and/or documents, statements and forms, as may reasonably be required by the Commission, or
(2) A certified transcript; provided, however, if such offering is taken as an accredited C.E.U. (Continuing Education Unit) a certificate may be accepted in lieu of the transcript.

~~(i)~~(h) **Attendance and successful completion required for ~~in-class~~ credit.** To complete any ~~in-class~~ offering, a person must physically be present in-class during all of the in-class offering time and successfully complete all course requirements.

~~(j)~~(i) **Successful completion of materials and examination required for distance education credit.** To complete a distance education course offering, a person must successfully complete all course requirements to include all modules and an examination.

~~(k)~~(j) **Course limitations.**

(1) A particular course offering may not be taken for continuing education credit more than once from the same entity and/or instructor during a renewal period.
(2) Educational courses taken for disciplinary reasons shall not count towards the normal continuing education requirements for licensees.

~~(l)~~(k) **Required number of continuing education hours.** The required number of continuing education hours for a licensee shall be as follows:

(1) As a condition of a license activation or active reinstatement, each licensee, ~~with an expiration date of June 30, 2014 and thereafter,~~ with the exception of those exempt as set out in Title 59, 858-307.2, shall provide evidence of completion of ~~twenty-one (21)~~thirty (30) clock hours of Commission approved subject matter, or its equivalent, as determined by the Commission. Such hours shall ~~have been~~be taken in the same license term for which the license is to be issued, with the exception of a licensee whose hours were not used in the preceding license term. In that case, the hours taken in the preceding license term shall count towards an applicable license activation or active reinstatement.
(2) Each licensee shall ~~have completed of said twenty-one (21) clock hours of continuing education six (6) clock hours of required subject matter as directed by the Commission.~~complete a minimum of thirteen (13) hours of required subject matter consisting of no less than six (6) hours of Contracts and Forms, three (3) hours in Professional Conduct, and one (1) hour in Broker Relationships Act, Fair Housing, Code and Rules, and Hot Topics/Current Issues. The remaining seventeen (17) hours of required education may consist of elective subject matter as approved by the Commission.
~~(3) The required subject matter, or its equivalent, as determined by the Commission, shall consist of at least one (1) clock hour in all following subjects each license term: Professional Conduct, Broker Relationships Act, Fair Housing, Contracts and Forms, Code and Rule Updates and Current Issues. The remaining fifteen (15) clock hours may consist of elective subject matter as approved by the Commission~~.
~~(4)~~(3) Any licensee may complete the Broker in Charge course as approved by the Commission consisting of fifteen (15) clock hours in lieu of the required subject matter.
~~(5)~~(4) All Brokers shall be required to successfully complete the Broker in Charge course ~~as approved by the Commission~~ consisting of fifteen (15) clock hours, or its equivalent, as approved by the Commission. In addition, to ~~complete~~satisfy the continuing education requirement of ~~twenty-one (21)~~thirty (30) clock hours, ~~such broker~~ all Brokers shall complete at least six (6) hours of Contracts and Forms education. ~~two (2) of the six (6)~~

~~required subject matter, equal to at least six (6) clock hours, as referenced in paragraph (3)of this subsection.~~The remaining nine (9) clock hours of required education may consist of elective subject matter as approved by the Commission.

~~(6)~~(5) Any broker that lapsed or renewed inactive in their previous license term or current license term who applies for reinstatement or activation must complete the following prior to their license being reinstated or reactivating:

(A) the Broker in Charge course; ~~two (2) of the six (6) required subject matter equal to at least six (6) hours~~

(B) six (6) hours of Contracts and Forms education;

(C) nine (9) hours of elective courses

605:10-3-7. Provisional sales associate post-license education requirement [AMENDED]

(a) **Purpose.** The purpose of the provisional sales associate post-license education requirement is to provide an educational program through which real estate provisional sales associate licensees can become more competent, knowledgeable and perfect their ability to engage in real estate activities for which they are licensed. Such activities involve facts and concepts which licensees must be knowledgeable in order to safely and confidently conduct real estate negotiations and transactions in the public's best interest.

(b) **Goals.** The goals of the provisional sales associate post-license education requirements are:

(1) To provide newly licensed individuals with the opportunity to obtain current information and knowledge to enable them to conduct real estate negotiations and transactions in a legal and professional manner in order to better protect public interest.

(2) To assure that licensees are provided with relevant information pertaining to practices which directly relate to real estate business.

(3) To assure that the provisional sales associate is provided with information regarding new and/or changing laws and regulations which affect the real estate business.

(4) To assure that the consumers interest is protected from unknowledgeable licensees.

(c) **Objectives.** The objectives of post-license education are to:

(1) Assist newly licensed individuals by having available a practical educational program wherein the information attained can be put into practice.

(2) To help licensees expand and enhance their knowledge and expertise so as to continually be effective, competent, and ethical as they practice real estate.

(3) To encourage licensees to gain additional education for specialization in particular areas of real estate.

~~(d) **Subject content**~~(d) **Requirements.** ~~On and after July 1, 1993, a~~ A provisional sales associate shall be required to successfully complete prior to the first license expiration date, forty-five (45) clock hours of post-license education or its equivalent as determined by the Commission. Such course of study shall be referred to as the Provisional Post-license Course of Real Estate, Part II of II and shall encompass the following areas of study:

(1) Real Estate Marketplace
(2) Marketing Real Estate
(3) Personal Marketing
(4) The Qualifying Process
(5) Prospecting and Negotiating
(6) Financing Real Estate, Investments and Exchanges
(7) Financial Documents
(8) Duty to Account
(9) Title Search
(10) Risk Management
(11) At least three (3) clock hours of Broker Relationships with Parties to a Transaction
(12) Property Management
(13) At least three (3) clock hours of Laws and Regulations Affecting Real Estate Practice, including Code and Rules
(14) Disciplinary Action
(15) At least three (3) clock hours of Contracts and Forms.
(16) At least three (3) clock hours of Professional Conduct and Ethics
(17) At least three (3) clock hours of Fair Housing.

(e) **Equivalent course content.** The Commission may approve and/or accept any offering or combination of offerings which consists of forty-five (45) clock hours or more or its equivalent as determined by the Commission provided by an entity which meets the purposes, goals and objectives of the provisional sales associate post-license education requirement.

(f) **Offerings.**

(1) The Commission may accept the following offerings as proof of meeting the post-license education requirement:

(A) Any offering which is approved and presented by those entities enumerated in Title 59, O.S., subsection B, of 858-307.2 of the "Code."

~~(B) Any offering in real estate, or directly related area, approved and/or accepted by the real estate regulatory agency in another state; provided such offering is not excluded elsewhere in this Chapter.~~

~~(C)~~(B) Any offering in real estate, or directly related area, not accepted in ~~paragraphs~~paragraph (A) ~~or (B)~~ of this subsection, which can be determined by the Commission to be in compliance with the ~~intent of the~~ rules of this Chapter.

(2) The Commission has the authority to disapprove any offering which fails to meet the purposes, goals and objectives of this Section.

(g) **Licensee responsible for notification to Commission.** Each provisional sales associate shall be responsible to furnish evidence to the Commission of ~~having~~ successfully ~~completed~~ completing a Commission approved forty-five (45) clock hour post-license education course or its equivalent as determined by the Commission. Upon successful completion of the post-license education requirement, evidence must be submitted on or before license expiration and on a form approved by the Commission.

(h) **Failure to complete post-license education requirement prior to license expiration** A provisional sales associate who fails to complete the post-license education requirement prior to the first expiration date of the provisional sales associate license, shall not be entitled to renew such license.

(i) **Evidence of completion.** As evidence of having completed the education requirement, each provisional sales associate shall present one or more of the following as required by the Commission:

(1) A certificate, and/or documents, statements and forms, as may reasonably be required by the Commission, or

(2) A certified transcript; however, if such offering is taken as an accredited C.E.U. (Continuing Education Unit) a certificate may be accepted in lieu of the transcript.

(j) **Attendance and successful completion required for ~~in-class~~ credit.** To complete any ~~in-class~~ offering, a person must physically be present in-class during all of the in-class offering time, if any, and otherwise successfully complete all course requirements and an examination.

(k) **Successful completion of materials and examination required for distance education credit.** To complete a distance education offering, a person must successfully complete all course requirements to include all modules and an examination.

(l) **Course limitations.** The following course limitations shall apply:

(1) A provisional sales associate shall only be given credit for courses specifically approved by the Commission.

(2) Educational courses taken for disciplinary reasons do not count towards the normal post-license education requirement.

(m) **Extension of time for completion of post-license course for provisional sales associate that has received orders for active military service.** A provisional sales associate that has received orders for active military service may request an extension of time to complete the post-license education requirement if the request is received in writing prior to the expiration of the license. The request must be accompanied by a copy of the military orders for active military service. The extension of time shall be one (1) year from the date of return from active military service. In conformance with §858-309, a licensee on active military service shall request an inactive status prior to each term for which the license is to be issued. If an extension is approved, a provisional sales associate shall be allowed to renew their license by requesting an inactive status in writing prior to each term for which the license is to be issued.

SUBCHAPTER 5. INSTRUCTOR AND ENTITY REQUIREMENTS AND STANDARDS

605:10-5-1. Approval of pre-license course [AMENDED]

(a) **Course approval.** Any person or entity seeking to conduct an approved pre-license course of study shall make application and submit documents, statements and forms as may reasonably be required by the Commission. The request shall include the following:

(1) Completed course application.

(2) Application fee of ~~One Hundred Twenty-five Dollars ($125.00)~~Five Hundred Dollars ($500) for each course.

(3) An approved course syllabus encompassing the contents enumerated in 605:10-3-1 and divided by instructional periods, the name, author and publisher of the primary textbook, or a statement stating the entity will use the OREC syllabus and other items as may be required by the Commission.

(b) **Course offering requirements.**

(1) An entity not conducting an applicable approved course within any thirty-six (36) month period shall automatically be removed from approved status. In such event, the person and/or entity must re-apply as an original applicant.

(2) If a course of study is to be conducted in the name of a ~~corporation~~business entity, the application shall include the names and addresses of all directors and officers.

(3) An approved entity shall immediately report any changes in information in regards to the application previously filed with the Commission.

(c) **Denied applications.** No portion of the fees enumerated in this section are refundable. If an instructor, entity or course application is not approved, the applicant may appeal the decision by filing a written request for a hearing before the Commission. The hearing procedure shall be that as outlined in 605:10-1-3 titled "Appeal of administrative decisions; procedures."

(d) **Advertising course offerings.** No person or entity sponsoring or conducting a course of study shall advertise the course as approved prior to the course receiving approval from the Commission. Further, no person or entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission although such person or entity may indicate that a course of study has been approved by the Commission.

(e) **Instructor application and approval requirements.** An individual determined by the Commission to possess one or more of the following qualifications may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor. Each application for approval must be accompanied by a ~~Twenty-Five Dollar ($25.00)~~Two Hundred Dollar ($200.00) application fee, and documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

(1) A bachelor's degree with a major in real estate from an accredited college or university.

(2) A bachelor's degree from an accredited college or university, and at least two (2) years of applicable active experience within the previous ten (10) years as a real estate broker or sales associate.

(3) A real estate broker or sales associate licensed in Oklahoma with a minimum of five (5) years applicable active experience within the previous ten (10) years as a real estate broker or sales associate and proof of high school education or its GED equivalent.

(4) An individual determined by the Commission to possess a combination of education and/or applicable active broker or sales associate experience in real estate or real estate related fields which constitutes an equivalent to one or more of the qualifications in paragraphs (1), (2), or (3) of this subsection.

(f) **Course content examination.** Final approval will be considered after the instructor applicant has paid the appropriate examination fee and successfully completed an applicable examination with a passing score of 80% or more. If an instructor applicant has successfully taken an applicable license examination with a passing score of 80% or more within thirty (30) days of filing an instructor application, the passing score may be utilized to meet the applicable examination requirement in this section.

(g) **Instructor renewal requirements.**

(1) Commission approval of pre-license instructors shall expire thirty-six (36) months following issuance of approval. In order to maintain approved status, an instructor ~~must complete one of the following:~~ shall file an electronic application for renewal of approval immediately preceding expiration of approval and must complete the following: Submit a One Hundred Dollar ($100.00) renewal fee to the Commission; and either

~~(A) Furnish evidence that the instructor has taught a Commission approved pre-license course, or any other real estate related course(s) the Commission determines to be equivalent, within a required thirty-six (36) month period;~~

~~(B) Successfully pass the applicable sales or broker examination with a score of 80% or more; or~~

~~(C) Furnish evidence to the Commission that the instructor has audited an in-class prelicense course, in its entirety, that must be validated by the school instructor or director.~~

~~(2) Instructors must sign a statement affirming that changes to current law and rules have been reviewed and that the instructor has made applicable amendments to the course material. Any instructor not meeting the requirements of this section may be required to re-apply as an original instructor applicant.~~

(A) Successfully complete an Instructor Development Workshop provided by the Commission annually; or

(B) Successfully complete a Code and Rule Update Class provided by the Commission bi-annually; or

(C) Successfully pass the applicable sales or broker examination with a score of 80% or more.

(2) The Commission shall publish (i) Instructor Development Workshop and (ii) Code and Rule Update Class dates on the Commission's website.

(h) **Guest instructors.** Guest instructors may be utilized provided an approved instructor is also present during presentations. Total guest instruction and lectures shall not consume more than thirty percent (30%) of the total course time.

(i) **Instructor and entity requirements.**

(1) **Instructor must be present.** An approved instructor must be present in the same room during all in-class course instruction for students to receive credit toward course completion.

(2) **Retention of records.** An instructor/entity shall maintain enrollment records and roll sheets which include number of hours completed by each student for five (5) years.

(3) **Course completion certificate.** Each individual successfully completing a course of study approved by the Commission shall be furnished a certificate certifying completion. The Commission shall accept from a college or university a certified transcript or a course completion certificate as prescribed by the Commission.

(4) **Commission authorized to audit and inspect records.** A duly authorized designee of the Commission may audit any offering and/or inspect the records of the entity at any time during its presentation or during reasonable office hours or the entity may be required to provide the records to the Commission.

(5) **Clock hours and breaks.** Not more than one clock hour may be registered within any one sixty (60) minute period and no more than ten (10) minutes of each hour shall be utilized for breaks.

~~(6) **Class size limited.** Instructor ratio to students shall not exceed sixty (60).~~

(j) **Facility requirements.** The offering entity shall ensure that all classroom facilities have adequate lighting, seating space and technology to meet the needs of the student. The classroom area shall be free of distractions and noise.

(k) **Disciplinary action.** An approved course of study, director, and/or instructor may be withdrawn or disciplined as outlined in Title 59, O.S., Section 858-208, paragraph 6 either on a complaint filed by an interested person or the Commission's own motion, for the following reasons, but only after a hearing before the Commission and/or a Hearing Examiner appointed by the Commission:

(1) In the event the real estate license of a director is suspended or revoked, the course of study shall automatically be revoked.

(2) In the event the real estate license of an instructor is suspended or revoked.

(3) Failure to comply with any portion of the Code or the rules of this Chapter.

(4) Falsification of records and/or application(s) filed with the Commission.

(5) False and/or misleading advertisement.

(6) Any other improper conduct or activity of the director, instructor, or entity as may be determined by the Commission to be unacceptable.

(l) **Pre-license Course Renewal Requirements.** Commission approval of pre-license courses shall expire thirty-six (36) months following issuance of approval. In order to maintain approved status, an education provider shall file an electronic application for renewal of approval immediately preceding expiration of approval and must submit to the Commission:

(1) All proposed course material; and

(2) A One Hundred Dollar ($100.00) renewal fee

(m) **Entity Required to Post Notice.** Each entity must post notice. Each entity must post or provide a notice that is easily observed by any person desiring to enroll in a prelicense course. The notice must at least include the following language:

(1) "Applicants convicted of felony crimes referenced in Title 59 Section 858-301.1 or 858-4000.1 may be ineligible to obtain an Oklahoma Real Estate License for a predetermined number of years. For clarification, please contact the Commission and/or review the cited section of law as referenced herein. The Commission will allow the applicant to seek preapproval prior to enrolling in a pre-license course."

(2) "Applicants who are not permanent U.S. citizens should review their eligibility to obtain a real estate license on the Commission's website prior to enrolling in pre-license education."

605:10-5-1.1. Approval of a post-license course [AMENDED]

(a) **Course approval.** In accordance with Section 858-302 of the License Code, the Commission shall determine and approve the education content of the forty-five (45) clock hour post-license course content or its equivalent. Any person or entity seeking to conduct an approved course of study shall make application and submit documents, statements and forms as may reasonably be required by the Commission. The request shall include the following:

(1) Completed course application.

(2) Application fee of ~~One Hundred Twenty-five Dollars ($125.00)~~Two Hundred and Fifty Dollars ($250) for each course.

(3) An approved course syllabus encompassing the contents enumerated in 605:10-3-7 and divided by instructional periods, with the name, author and publisher of the primary textbook.

(b) **Course offering requirements.**

(1) An offering entity not conducting the approved course within any thirty-six (36) month period shall automatically be removed from approved status. In such event, the person and/or entity must re-apply as an original applicant.

(2) If a course of study is to be conducted in the name of a corporation, the application shall include the names and addresses of all directors and officers.

(3) An approved entity shall immediately report any changes of information in regards to the application previously filed with the Commission.

(c) **Denied applications.** No portion of the fees enumerated in this Section are refundable. If an instructor, entity or course application is not approved, the applicant may appeal the decision by filing a written request for a hearing before the Commission. The hearing procedure shall be that as outlined in 605:10-1-3 titled "Appeal of administrative decisions; procedures."

(d) **Advertising course offerings.** No person or entity sponsoring or conducting a course of study shall advertise the course as approved prior to the course receiving approval from the Commission. Further, no person or entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission although such person or entity may indicate that a course of study has been approved by the Commission.

(e) **Instructor application and approval requirements.** An individual determined by the Commission to possess one or more of the following qualifications may be considered for approval as an instructor upon receipt of an application and evidence of education and/or experience. Each application must be accompanied by a ~~One Hundred Dollar ($100.00)~~Two Hundred Dollar ($200.00) application fee, and documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

(1) Possession of a bachelor's degree in a related field.

(2) Possession of a valid teaching credential or certificate from Oklahoma or another jurisdiction authorizing the holder to instruct in an applicable field of instruction at the entity.

(3) Five (5) years full-time experience out of the previous ten (10) years in a profession, trade, or technical occupation in the applicable field of instruction.

(4) An individual determined by the Commission to possess a combination of education and/or experience in a field related to that in which the person is to instruct, which constitutes an equivalent to one or more of the qualifications in (1), (2) or (3) of subsection (e) of this section.

(f) **Instructor renewal requirements.**~~(1)~~ Commission approval of instructors shall expire thirty-six (36) months following issuance of approval. In order to maintain approved status, an instructor~~ must complete one of the following:~~ shall file an electronic application for renewal of approval immediately preceding expiration of approval and must complete the following:

~~(A) Furnish evidence that the instructor has taught a Commission approved post-license course, or any other real estate related course(s) the Commission determines to be equivalent, within a required thirty-six (36) month period;~~

~~(B) Successfully pass the applicable sales or broker examination with a score of 80% or more; or~~

~~(C) Furnish evidence to the Commission that the instructor has audited an in-class prelicense course, in its entirety that must be validated by the school instructor or director.~~

(1) Submit a One Hundred Dollar ($100.00) renewal fee to the Commission; and either

(A) Successfully complete an Instructor Development Workshop provided by the Commission annually; or

(B) Successfully complete a Code and Rule Update Class provided by the Commission bi-annually; or

(C) Successfully pass the applicable sales or broker examination with a score of 80% or more.

(2) The Commission shall publish (i) Instructor Development Workshop and (ii) Code and Rule Update Class dates on the Commission's website.

~~(2) Instructors must sign a statement affirming that changes to current law and rules have been reviewed and that the instructor has made applicable amendments to the course material. Any instructor not meeting the requirements of this section may be required to re-apply as an original instructor applicant.~~

(g) **Guest instructors.** Guest instructors may be utilized provided an approved instructor is also present during presentations. Total guest instruction and lectures shall not consume more than thirty percent (30%) of the total course time.

(h) **Instructor and entity requirements.**

(1) **Instructor must be present.** An approved instructor must be present in the same room during all in-person course instruction for students to receive credit toward course completion.
(2) **Retention of records.** An instructor/entity shall maintain enrollment records and roll sheets which include number of hours completed by each student for a period of five (5) years.
(3) **Course completion certificate.** Each individual successfully completing a course of study approved by the Commission shall be furnished a certificate certifying completion. The Commission shall accept from a college or university a certified transcript or a course completion certificate as prescribed by the Commission.
(4) **Course notification to Commission.** An entity conducting an approved post-license education offering shall, within seven (7) days of the completion thereof, successfully submit to the Commission the list of name(s), license number(s) and other personal identifiers of those licensees who have successfully completed said offering. The information shall be submitted to the Commission by way of electronic format as required by the Commission, along with other information which may reasonably be required.
(5) **Commission authorized to audit and inspect records.** A duly authorized designee of the Commission may audit any offering and/or inspect the records of the entity at any time during its presentation or during reasonable office hours or the entity may be required to provide the records to the Commission.
(6) **Clock hours and breaks.** Not more than one clock hour may be registered within any one sixty (60) minute period and no more than ten (10) minutes of each hour shall be utilized for breaks.
~~(7) **Class size limited.** Instructor ratio to students shall not exceed sixty (60).~~

(i) **Facility requirements.** The offering entity shall ensure that all classroom facilities have adequate lighting, seating space and technology to meet the needs of the student. The classroom area shall be free of distractions and noise.
(j) **Disciplinary action.** An approved course of study, director, and/or instructor may be withdrawn or disciplined as outlined in Title 59, O.S., Section 858-208, paragraph 6 either on a complaint filed by an interested person or the Commission's own motion, for the following reasons, but only after a hearing before the Commission and/or a Hearing Examiner appointed by the Commission:

(1) In the event the real estate license of a director is suspended or revoked, the course of study shall automatically be revoked.
(2) In the event the real estate license of an instructor is suspended or revoked.
(3) Failure to comply with any portion of the Code or the rules of this Chapter.
(4) Falsification of records and/or application(s) filed with the Commission.
(5) False and/or misleading advertisement.
(6) Any other improper conduct or activity of the director, instructor, or entity the Commission determines to be unacceptable.

(k) **Post-license Course Renewal Requirements.** Commission approval of post-license courses shall expire thirty-six (36) months following issuance of approval. In order to maintain approved status, an education provider shall file an electronic application for renewal of approval immediately preceding expiration of approval and must submit to the Commission:

(1) All proposed course material; and
(2) A Fifty Dollar ($50.00) renewal fee

605:10-5-2. Approval of a continuing education course [AMENDED]

(a) **Approval and expiration of application.** An entity seeking to conduct an approved continuing education course shall make application for the approval or renewal of each course. Such approval or renewal shall expire at the end of the thirty-sixth (36) month including the month of issuance.
(b) **Application form.** Entities seeking approval of a course shall submit an application on a form prescribed by the Commission along with a non-refundable fee of Twenty Five Dollars ($25.00) per course. Each application shall include, but is not limited to, the following information:

(1) The name(s), address(es), and telephone number(s) of the sponsoring entity, the owner(s), and the coordinator/director responsible for the quality of the course.
(2) The title(s) of the course or courses.
(3) The number of hours in each course.
(4) A copy of each course's curriculum, including comprehensive course objectives, a detailed outline of the course subject matter and instructor(s) for each course.
(5) The method the entity will use to evaluate the course offering.
(6) The procedure the entity will use to monitor attendance.
(7) A personal resume indicating name(s) and qualifications of the instructor(s).

(8) Any other relevant information useful in determining that the entity is presenting a course which will meet the definition, purposes, goals and objectives adopted by the Commission.

(9) A statement attesting to the fact that in accepting approval as a continuing education entity, the entity will protect and promote the purposes, goals and objectives of continuing education as stated in the License Code and Rules.

(c) **Commission course approval notice.** The Commission shall within sixty (60) days after receipt of an application inform the entity as to whether the course has been approved, denied, or whether additional information is needed to determine the acceptability of the course.

(d) **Course renewal requirements.** Upon expiration of the time period, as stated in sub-paragraph (a) of this rule, an application for renewal of any course by an entity shall also be accompanied by a nonrefundable application fee of Twenty Five Dollars ($25.00) per course for a thirty-six (36) month period. Renewal applications shall be subject to the same requirements as original applications; however, the renewal application shall be submitted prior to expiration of the course(s).

(e) **Change of information notice requirement.** Whenever there is any change in a course, the entity shall notify the Commission prior to the effective date of the change. Such change shall not be considered approved until written notice is received from the Commission.

(f) **Advertising of course offering.** An entity advertising a course as being approved for continuing education credit shall state in such advertisement, "Approved by the Commission for (correct number) hours of continuing education credit." No entity sponsoring or conducting a course of study shall advertise the course as approved prior to the course receiving approval from the Commission. Further, no entity sponsoring or conducting a course of study shall advertise that it is endorsed, recommended or accredited by the Commission.

(g) **Course requirements and limitations.**

(1) A course will not be approved by the Commission if its duration is less than one (1) clock hour or its equivalent as determined by the Commission.

(2) To meet the statutory requirement, a clock hour shall equal sixty (60) minutes, with no more than ten minutes of each hour utilized for breaks.

(3) An entity conducting an approved continuing education course shall, within seven (7) days of the completion thereof, successfully submit to the Commission the list of name(s), license number(s) and other personal identifiers of those licensees who have successfully completed the course. The information shall be submitted to the Commission by way of electronic format as required by the Commission, along with other information which may reasonably be required.

(4) Each licensee successfully completing a course shall be furnished a completion certificate, prescribed or approved by the Commission.

(5) Each course shall be presented in a method that safely and properly presents the course.

(6) An approved instructor must be present in the same room during all in-class course instruction for students to receive credit toward course completion. If an instructor is presenting a Commission approved in-class course offering which is delivered to the licensees by way of electronic means to receiving sites other than where the instructor is presenting, the Commission may require that each receiving entity site have an in-class person monitoring the class in lieu of a Commission approved instructor.

(h) **Recruitment disallowed.**

(1) A coordinator/director or instructor shall not allow the classroom to be used by anyone to advertise and/or recruit new affiliates for any firm. The coordinator/director shall cause the following statement to be posted in the classroom in such a manner as will be readable by all participants: "No recruiting for employment opportunities for any real estate brokerage firm is allowed in this class. Any recruiting on behalf of, or permitted by, the Instructor should be promptly reported to the Oklahoma Real Estate Commission."

(2) An instructor shall not wear any identification relating to a specific name or identity of a real estate firm, a group of companies or franchises while in the class or on the premises.

(i) **Instructor application and approval requirements:** An individual may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an instructor for a three (3) year period including the month of approval. Each application and subsequent renewal must be accompanied by a nonrefundable ~~Fifty Dollar ($50.00)~~One Hundred Dollar ($100) application fee. In order to qualify, an individual must possess proof of one of the following:

(1) Possession of a bachelor's degree in a related field.

(2) Possession of a valid teaching credential or certificate from Oklahoma or another jurisdiction authorizing the holder to instruct in an applicable field of instruction.

(3) Five (5) years full-time experience out of the previous ten (10) years in a profession, trade, or technical occupation in the applicable field of instruction.

(4) An individual determined by the Commission to possess a combination of education and/or experience, in a field related to that in which the person is to instruct, which constitute an equivalent to one or more of the qualifications in (1), (2) or (3) of this subsection.

(j) **Denied application; appeal.** If the Commission is of the opinion that a proposed continuing education offering does not qualify under the Code and/or Rules of the Commission, the Commission shall refuse to approve the offering and shall give notice of that fact to the party applying for approval within fifteen (15) days after its decision. Upon written request from the denied party, filed within thirty (30) days after receipt of the notice of denial, the Commission shall set the matter for hearing to be conducted within sixty (60) days after receipt of the request. The hearing procedure shall be that as outlined in 605:10-1-3, titled "Appeal of administrative decisions; procedures."

(k) **Disciplinary action.** The Commission may withdraw or discipline as outlined in Title 59, O.S., Section 858-208, paragraph 6 the approval of a coordinator/director, instructor, offering or entity either on a complaint filed by an interested person or on the Commission's own motion, for any of the following reasons, but only after a hearing before the Commission and/or a Hearing Examiner appointed by the Commission:

(1) In the event the real estate license of an instructor and/or coordinator/director is revoked or suspended.
(2) Failure to submit all documents, statements and forms as may be reasonably required by the Commission.
(3) Falsification of records and/or applications filed with the Commission.
(4) False and/or misleading advertising.
(5) Failure to revise an offering so as to reflect and present current real estate practices, knowledge, and laws.
(6) Failure to maintain proper classroom order and decorum.
(7) Any conduct which gives the coordinator/director, instructor or entity presenting the offering an unfair advantage over other brokers and/or real estate companies.
(8) Failure to comply with any portion of the Code or rules of this Chapter.
(9) Any other improper conduct or activity of the director, instructor, or entity the Commission determines to be unacceptable.

(l) **Retention of records.** An instructor/entity shall maintain enrollment records and roll sheets which include number of hours completed by each student for five (5) years.

(m) **Commission authorized to audit.** A duly authorized designee of the Commission may audit any offering and/or inspect the records of the entity at any time during its presentation or during reasonable office hours or the entity may be required to provide the records to the Commission.

(n) **Licensee/Instructor course credit.**

(1) A licensee who is the instructor of an approved offering for continuing education shall be credited with one (1) hour for each hour of actual instruction performed.
(2) An instructor may not receive continuing education credit for instructing an offering more than one time during a license term.
(3) Records of such instruction shall be reported and maintained in the same manner as prescribed for participants elsewhere in the rules of this Chapter.

(o) **Guest instructors.** Guest instructors may be utilized provided an approved instructor is also present during presentations. Total guest instruction and lectures shall not consume more than thirty percent (30%) of the total course time.

605:10-5-3. Standards for Commission approved real estate courses [AMENDED]

(a) **Approved instructor.** Each course offering shall be conducted by a Commission approved instructor. The instructor shall be available during normal business hours as posted by the instructor to answer questions about the course material and provide assistance as necessary.

(b) **Student must attend ~~entire~~ in-class instruction or complete all modules required for distance education instruction.** In order for an entity to certify a student as passing an approved course the student must either:

(1) attend the required number of hours of in-class instruction; or
(2) complete all instructional modules required for distance education instruction~~.~~; or
(3) attend the required number of hours of in-class instruction and complete all instructional modules required for courses utilizing both in-class instruction and distance education instruction.

(c) **Student must successfully complete a prelicense, postlicense or distance education course offering examination.** In order for an entity to certify a student as passing an approved prelicense, postlicense or distance education course, the student must successfully complete an examination covering the contents of the course material.

(d) **Student transfers.** Except with the prior approval of the Commission, a student transferring from one course to another may not count any portion of the student's attendance or work in the former course toward passing the course. A student who enrolls in an entity which offers a Commission approved course may not transfer credit for a course or courses completed in that series to another entity unless the receiving entity offers the identical series of courses and the receiving entity agrees to accept and examine said student throughout successful completion.
(e) **Course examinations.** Each approved prelicense provisional sales associate course and postlicense course offering shall conclude with an end-of-course examination consisting of no less than one hundred and fifty (150) questions administered by the approved entity. Each approved prelicense broker course shall conclude with an end-of-course examination consisting of no less than two hundred (200) questions administered by the approved entity. Each approved distance continuing education course offering shall conclude with an end-of-course examination consisting of no less than seven (7) questions for each clock hour. End-of-course examination questions may not be the same as any previously used questions covering the respective course content.
(f) **Successful completion.** In order for a student to successfully complete a prelicense, postlicense or distance education course, the entity must require that the student complete all class material and/or modules and achieve a passing score of at least seventy five percent (75%) on the entity's final examination. An entity shall require the student to complete sufficient material or modules to ensure mastery of the course offering, and shall require the student to complete the end-of-course examination. An entity may allow any student who fails to achieve a passing score the opportunity to take another examination without repeating instruction.
(g) **Grading standards.** In order for an entity to certify a student as passing an approved course, the student must meet the minimum grading standards established by this Section and the entity. On graded examinations for which this Section sets specific requirements, the entity's policy shall at least equal those requirements as listed in this Section. Other grading standards shall be in accordance with generally accepted educational standards. An entity shall publish grading standards and give them to a student in a written form at the beginning of the course.
(h) **Commission may impose sanction.** The Commission may impose any sanction permitted by law or Rules of the Commission on the approval of any entity, director and/or instructor which fails to provide proper security for their course evaluation or examination and for failing to comply with standards as set out in this Chapter.
~~(i) **Each entity must post notice.** Each entity must post or provide a notice that is easily observed by any person desiring to enroll in a prelicense course. The notice must at least include the following language: "Applicants convicted of felony crimes referenced in Title 59 Section 858-301.1 may be ineligible to obtain an Oklahoma Real Estate License for a predetermined number of years. For clarification, please contact the Commission and/or review the cited section of law as referenced herein. The Commission will allow the applicant to seek preapproval prior to enrolling in a pre-license course."~~
~~(j)~~(i) **Additional distance education course requirements.**

(1) Each course shall contain suitable learning objectives.
(2) Overview statements must be included for each course providing a quick preview of what is contained in the offering.
(3) A complete set of questions and an answer key must be provided to the Commission with each course application. An answer key may not be included in any course materials provided to the student.
(4) From the date of enrollment, the course shall have a validity period of six (6) months in which to allow successful completion to be attained.
(5) Entities must include information with the course material that clearly informs the student of the completion time frame, passing and examination requirements, and any other relevant information necessary to complete the course.
(6) Each course must include a statement that the information presented in the course should not be used as a substitute for competent legal advice.
(7) Course offerings must be sufficient in scope and content to justify the hours requested for approval.

~~(k)~~(j) Each entity shall promote the Basic Course of Real Estate as Part I of a two part series and the Provisional Postlicense Course of Real Estate as Part II of that series. ~~Applicants are to be advised that Part II of the series is not to begin until after license issuance and shall be completed prior to their first license expiration.~~
~~(l)~~(k) All materials that are distributed to students in any class must be current and up-to-date with the License Code and Rules and state or federal laws.

605:10-5-4. Education Provider Applications and Renewals [NEW]
(a) **Approval of Education Provider.**Any person or entity seeking to provide real estate education approved by the Commission shall file an application for approval in the form and manner required by the Commission, and submit documents, statements and forms as may reasonably be required by the Commission. The completed education provider application shall include the following:

(1) Application fee of Five Hundred Dollars ($500.00)
(2) Designate a "director" or "individual in charge" who shall be responsible for the course provider's operation and its real estate courses, and with whom the commission may communicate.

(b) **Education Provider Renewal.**Commission approval of education providers shall expire thirty-six (36) months following issuance of approval. In order to maintain approved status, an education provider shall file an electronic application for renewal of approval immediately preceding expiration of approval and must submit a renewal fee of Two Hundred and Fifty Dollars ($250.00).

SUBCHAPTER 7. LICENSING PROCEDURES AND OPTIONS

605:10-7-1. License issuance [AMENDED]

No real estate licensee shall begin operations in the real estate business without first having been issued his or her numbered active license certificate. This includes all original licenses, activations, reinstatements and all license types being changed from an associate to a broker or branch ~~office~~ broker, as defined in the rules.

605:10-7-1.1. Documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [AMENDED]

License renewals and reinstatements. Individuals who submit an application ~~on or after July 1, 2002,~~ shall be required to provide documentation necessary to verify compliance of citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Failure to provide this documentation shall result in disapproval of the application. If an individual fails to provide proof of citizenship within sixty (60) days from the date of reissuance of their license or approval, the individual will be placed inactive until the Commission receives current proof of citizenship or qualified alien status.

605:10-7-2. License terms and fees; renewals; reinstatements [AMENDED]

(a) **License term and fees.** Each original license issued under the Code shall be issued to expire at the end of the thirty-sixth (36) month including the month of issuance. Each original provisional sales associate license issued under the Code shall be issued to expire at the end of the twelfth (12th) month including the month of issuance. Fees are non-refundable and are as follows:

(1) For an original broker license and each subsequent license renewal, to include corporations, associations, limited liability companies or partnerships, the fee shall be Two Hundred and Eighty Dollars ($280.00). For an original sole proprietor broker license and each subsequent license renewal, the fee shall be Four Hundred Dollars ($400.00).
(2) For an inactive original broker license and each subsequent inactive license renewal, with the exception of corporations, associations or partnerships, the fee shall be One Hundred and Sixty 40 605:10-7-11. Applicant Criminal History Dollars ($160.00). In order to activate a license that was renewed inactive in the same license term, the licensee shall pay One Hundred and Sixty Five Dollars ($165.00). Thereafter, any future request to activate in the same license term shall be in accordance with Rule 605:10-7-4.
(3) For an original broker associate license and each subsequent license renewal, the fee shall be Two Hundred and Forty Five Dollars ($245.00).
(4) For an inactive original broker associate license and each subsequent inactive license renewal, the fee shall be One Hundred and Fifty Dollars ($150.00). In order to activate a license that was renewed inactive in the same license term, the licensee shall pay One Hundred and Fifty Five Dollars ($155.00). Thereafter, any future request to activate in the same license term shall be in accordance with Rule 605:10-7-4.
(5) For an active original sales associate license and each subsequent active license renewal the fee shall be Two Hundred Dollars ($200.00).
(6) For an inactive original sales associate license and each subsequent inactive license renewal the fee shall be One Hundred and Twenty Five Dollars ($125.00). In order to activate a sales associate license that was renewed inactive in the same license term, the licensee shall pay One Hundred and Thirty Five Dollars ($135.00). Thereafter, any future request to activate in the same license term shall be in accordance with Rule 605:10-7-4.
(7) For an original provisional sales associate license that is non-renewable the fee shall be Ninety Five Dollars ($95.00).
(8) For an original branch office license and each subsequent license renewal the fee shall be One Hundred and Seventy Dollars ($170.00).

(9) For each duplicate license or pocket card, where the original is lost or destroyed, and a written request is made, a fee of Seven Dollars and fifty cents ($7.50) shall be charged.
(10) The ~~Fifteen Dollar ($15.00)~~Twenty Dollar ($20.00) Education and Recovery Fund fee, shall be added and payable with the license fee for an original license and for each subsequent license renewal. Exceptions to this rule are: 1) a provisional sales associate ~~license~~ fee shall be ~~Five Dollars ($5.00)~~Fifteen Dollars ($15.00) for their twelve (12) month license term~~; and, 2) a branch office shall not pay the fee.~~

(b) **Terms cannot be altered.** Terms shall not be altered except for purposes of general reassignment of terms which might be necessitated for the purpose of maintaining an equitable staggered license term system.
(c) **Expiration date.** The actual expiration date of a license shall be midnight of the last day of the month of the designated license term. A person who allows their license to expire may be subject to a national criminal history record check, as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.
(d) **Actual filing of license renewal.** A license shall lapse and terminate if a renewal application and required fees have not been filed with the Commission by midnight of the date on which the license is due to expire.~~, except in the event that date falls on a Saturday, Sunday or holiday; in such a case, the next Commission working day shall be considered the due date.A renewal application and required fees are considered filed with the Commission on the date of the United States postal service postmark or the date personal delivery is made to the Commission office.~~
(e) **Reinstatement of license.** Any licensee whose license term has expired shall be considered for reinstatement of such license upon payment of an Eighty Dollar ($80.00) reinstatement fee in addition to the license fee(s) for each delinquent license period(s). The following documents and fees must be submitted:

(1) **Lapsed less than one year.** In the case of a license lapsed less than one year:
(A) License fee.
(B) Reinstatement fee.
(C) Documents as required by the Commission.

(2) **Lapsed more than one year but less than three years.** In the case of a license lapsed more than one year but less than three years:
(A) License fee.
(B) Reinstatement fee.
(C) National criminal history check.
(D) A completed reinstatement application.
(E) Successful completion of the appropriate licensing examination.
(F) A statement that the applicant has read a current License Code and Rules.
(G) Documents as may be required by the Commission.

(3) **Lapsed more than three years.** If an application is submitted more than three (3) years subsequent to the most recent year of licensure, the applicant shall be regarded as an original applicant.

(f) **Reinstatement of a provisional sales associate license wherein post-license education was completed prior to license expiration date.** An applicant who successfully completed the post-license education requirement before their first license expiration date and failed to renew their license on or before such date shall be eligible to reinstate the license as a sales associate according to 605:10-7-2 (e), (1) through (3).
(g) **Reinstatement of a provisional sales associate license wherein post-license education was not completed prior to license expiration date.** An applicant who has not successfully completed the post-license education requirement prior to the first license expiration date shall not be eligible to reinstate such license and shall apply and qualify as an original applicant.
(h) **Reinstatement of revoked license.** An applicant may not apply for re-license or reinstatement of license for a minimum of five (5) years from the effective date of license revocation, except for an applicant whose license was automatically revoked pursuant to Sections 858-402 or 858-604 of Title 59, Oklahoma Statutes. Upon the passage of the five (5) year period, the applicant shall be required to comply with the requirements of an original applicant.
(i) **Reinstatement of an automatically revoked license.** An applicant who has had their license automatically revoked, pursuant to Section 858-402 or 858-604 of Title 59 of the Oklahoma Statutes, shall be required to comply with the requirements of (e) of this section. In addition, reinstatement will not be granted until all outstanding amounts due to the Commission have been paid in full.
(j) **Reinstatement of a surrendered or cancelled license.** A surrendered or cancelled license applicant may be reinstated provided the applicant has received approval for re-issuance from the Commission. The following forms and fees must be submitted:

(1) **Reinstatement with term of license still current.** A surrendered or cancelled license applicant whose license term is still current:
(A) Reinstatement fee.

(B) Re-issuance fee equal to the transfer of license fee.
(C) Documents as may be required by the Commission.
(D) Criminal history background check.

(2) **Reinstatement with term of license expired.** A surrendered or cancelled license applicant whose license term has expired shall be required to comply with the requirements of (e) of this section.

(3) **Reinstatement of provisional sales associate with term of license expired.** A surrendered or cancelled provisional sales associate whose license term has expired shall be required to comply with the following:

(A) If a provisional sales associate completed the post-license requirement on or before the first license expiration date, the applicant shall be eligible to reinstate the license according to 605:10-7-2 (e), (1) through (2).

(B) If a provisional sales associate did not complete the post-license requirement on or before the first license expiration date, the applicant shall be required to apply and qualify as an original applicant.

(k) **Continuing education requirement.** Each licensee with the exception of those as listed in Title 59, O.S., Section 858-307.2 (D) seeking renewal of a license must submit evidence that they have completed the continuing education requirements enumerated in Section 858-307.2 of Title 59. An applicant seeking active reinstatement of a lapsed license must submit evidence that all continuing education requirements have been completed for each term in which an active license is requested.

~~(l) **License expires after effective date of national criminal history check.**~~

~~(1) Any licensee who allows their license to expire for more than one (1) year shall be required to submit to a national criminal history check; however, such individual shall be allowed to proceed with reinstatement of such license pending receipt by the Commission of a completed background check, and fee as stated elsewhere in these rules for the background search. If, the Commission does not receive a completed application, background check, and fee within thirty (30) days from the date of request by the Commission, the license will be placed inactive and a hold placed on the license until receipt by the Commission of the aforementioned items. Thereafter, upon receipt by the Commission, the license may be reactivated so long as appropriate reactivation forms and fees, are received by the Commission.~~

~~(2) A provisional sales associate who completes the Provisional Post-License Course prior to their first license expiration date but fails to timely renew the license shall be eligible to apply under the requirement under the preceding paragraph. However, after a period of three (3) years from the date of the license expiration such applicant shall no longer be eligible to apply under this section.~~

~~(m)~~(l) **Issuance of license from provisional sales associate to sales associate.** A provisional sales associate is required to furnish to the Commission evidence of successful completion of the Provisional Post-license Course of Real Estate, Part II of II education requirement as set forth in Section 858-302 of Title 59, of the Oklahoma Statutes. Upon successful completion of the Provisional Post-license Course of Real Estate, Part II of II education requirement, the provisional sales associate must submit the appropriate document(s) to the Commission prior to the provisional sales associate's license expiration date for issuance of a renewable sales associate license. The Commission shall not issue the provisional sales associate a renewable sales associate license until the provisional sales associate has submitted evidence of successful completion of the forty-five (45) clock hour post-license course requirement and submitted all form(s) and fee(s) as required by the Commission.

~~(n) **Active sales associate to inactive broker associate, or sales associate and/or broker associate to inactive broker license - no remaining credit to be given.** In the event an active sales associate, within six (6) months of obtaining their original license, reinstatement or license renewal qualifies for an inactive broker associate license, the Commission shall not credit the difference in license fees. In the event an active sales associate or broker associate within six (6) months of obtaining their original license, reinstatement or license renewal qualifies for an inactive broker license, the Commission shall not credit the difference in the license fees.~~

~~(o)~~(m) **Licensee on active duty as a member of the Armed Forces of the United States.**

(1) In accordance with Title 59, O.S., Section 4100.6 of the Post-Military Service Occupation, Education and Credentialing Act while a license holder is on active duty the license may be renewed without payment of the license and education and recovery fund fee and meeting the continuing education requirement. Such waiver shall be requested in writing to the Commission prior to license expiration along with evidence of the order for active duty. The license issued pursuant to this rule may be continued as long as the licensee is a member of the Armed Forces of the United States on active duty and for a period of at least one (1) year after discharge from active duty. Upon discharge from active duty and a request for license activation, the licensee shall submit to the Commission evidence of successful completion of the continuing education requirement for the current license renewal term.

(2) If a licensee on active duty does not request such a waiver in writing and the license expires, the applicant may, by written request provide the Commission documentation as required in subparagraph (1) of this subsection; however, no later than one (1) year after discharge from active duty.
(3) In the event a license expires during the events as noted herein, the Commission shall waive the criminal history background check and license examination.
(4) Member of the National Guard or reserve component of the armed forces. In accordance with Title 72, Chapter 1, Section 48.2 Extension and Renewal of Professional Licenses, any licensee whose license expires while on active duty as a member of the National Guard or reserve component of the armed forces shall be extended until no later than one (1) year after the member is discharged from active duty status. Upon the Commission receiving a copy of the official orders calling the member or reservist to active duty and official orders discharging the member or reservist from active duty all licensee fee and continuing education shall be waived for this time period as well as the criminal history background check and license examination.

~~(p)~~(n) **Reinstatement for corporation, association or partnership.**

(1) A corporation, association or partnership that has lapsed for less than three (3) years that wishes to reinstate must submit:

(A) License fee(s).
(B) Reinstatement fee, forms and documents as required by the Commission.
(C) If the corporation or association has been lapsed for more than sixty (60) days, a current "Certification of Good Standing."

(2) Any corporation, association or partnership that has lapsed for more than three (3) years must submit an original application to be considered for licensure.

~~(q)~~(o) **Reinstatement for branch offices.**

(1) A branch office that is lapsed for less than three (3) years that wishes to reinstate must submit:

(A) License fee(s).
(B) Reinstatement fee, forms and documents as required by the Commission

(2) Any branch office that has lapsed for more than three (3) years must submit an original application as a new branch office.

~~(r)~~(p) **Specific license fees waived for low-income individuals.** In accordance with Title 59, Section 4003, any applicant who can present satisfactory evidence of being a low-income individual shall receive a one-time one-year waiver of the licensure fees as outlined in 605:10-7-2 (a). Such waiver shall be prorated for a multi-year license so that the applicant shall only receive a waiver for one year of the applicable license fees. For the purposes of this section, "low-income individual" means an individual who is enrolled in a state or federal public assistance program, or whose household adjusted gross income is below 140% of the federal poverty line or a higher threshold to be set by the executive branch department that oversees business regulation. Satisfactory evidence that the applicant is a low-income individual must be made upon forms provided by the Commission and must be presented upon application for original licensure.

605:10-7-5. Name changes [AMENDED]

~~(a)~~ **Name change request.** Any change of name of a licensee or licensed firm must be filed in the Commission office within ten (10) days of such change. Filed shall mean the date of the United States postal service postmark or the date personal or electronic delivery is made to the Commission. Upon any request for a change of name there shall be paid a fee to the Commission of Twenty-five Dollars ($25.00) for each license to be changed. The Commission may require additional documents as may reasonably be required by the Secretary-Treasurer.

~~(b) **Group name changes.** Under certain circumstances as determined by the Commission, the Commission may place a cap of Seven Hundred Fifty Dollars ($750.00) on group transactions requesting licenses to be reissued. To qualify, such request must be received complete and require no further correspondence and/or documents except for the issuance of the licenses.~~

605:10-7-6. Certification of license history and letters of good standing [AMENDED]

Each request for a certification of license history or letter of good standing shall be submitted electronically or in the form of a letter to the Commission accompanied by a fee of ~~Fifteen Dollars ($15.00).~~Twenty Five Dollars ($25.00).

605:10-7-7. Branch offices [AMENDED]

(a) **Each additional office must be licensed.** If a broker desires to do business from more than one office location, the broker must license each additional office location as a branch office by submitting forms and fees as required by the Commission. The license shall be maintained in the branch office and available upon request.

(b) **Associate's license issuance.** An associate's license shall be issued electronically and maintained in each Associate's License Portal under the supervision of the Branch Broker and Managing Broker.
(c) **Broker to designate a branch ~~office~~ broker to act.** A broker shall designate a branch ~~office~~ broker, other than himself or herself, to act as broker for each location, to supervise the activities of the branch office. The branch office shall be licensed in conformance with Section 858-310 of the Code. The branch ~~office~~ broker may be designated to perform all duties and sign documents on behalf of the broker with respect to the branch office at the discretion of the broker. ~~Such designation shall be in writing and filed with the Commission.~~ The branch ~~office~~broker assumes responsibility in conjunction with the broker, for all associates assigned to the branch office.
(d) **Broker may act as branch ~~office~~ broker; restriction.** A broker may act as the branch ~~office~~ broker if the branch office is located at the same location as the main office upon the appropriate documents and fees being filed with the Commission.
(e) **Reappointment of branch ~~office~~ broker.** In the event of the death or disability of the designated branch ~~office~~ broker, or in the event of the retirement or cessation of employment for any reason by the designated branch ~~office~~ broker, and the branch office is to continue business, the main office broker shall appoint a new branch ~~office~~ broker and file the appropriate documents with the Commission within thirty (30) days of the occurrence of the event.
(f) **Branch office must utilize the same name or trade name of main office.** A branch office may utilize a trade name which is different than the main office so long as the broker registers the name(s) with the Commission.

605:10-7-8. ~~Corporation and Association~~Business Entity licensing procedures and requirements of good standing [AMENDED]
(a) **Broker license requirement.** Each corporation, ~~and~~ association or other business entity who performs activities which require a real estate license pursuant to Title 59, O.S., Section 858-102 of the License "Code" shall apply as a real estate business entity. Upon approval by the Commission, the corporation, ~~or~~ association or other business entity shall be granted a real estate license. In order to obtain a license, the corporation, ~~or~~ association or other business entity shall furnish to the satisfaction of the Commission, but not limited to, the following items:

(1) Completed application form(s) and required fee(s).
(2) Verification that the ~~corporation or association~~business entity is authorized to transact business as a business entity in the State of Oklahoma and that the ~~corporation or association~~business entity is in good standing in the State of Oklahoma.
(3) ~~Corporation or association~~Business entity must be in compliance with Title 59, O.S., Section 858-312.1 of the License "Code."
(4) ~~Corporation or association~~Business entity must have a managing corporate broker who holds a separate license as a real estate broker.
(5) The designation of a managing broker shall be established by sworn statement signed by the President of the corporation or authorized member or manager of the association stating the date and place such action was effected.
(6) In the event of the death or disability of the managing broker, or the event of the retirement or cessation of employment for any reason by the managing broker, or the event of the retirement or cessation of employment for any reason by the managing broker, the corporation or association shall be required to appoint a new managing broker and such notice of change must be filed with the Commission no later than thirty (30) days after the occurrence of the event. The notice of change in a managing broker must be accompanied by the appropriate documents as required by the Commission and a Forty Dollar ($40.00) change of status fee.
~~(7) Corporations and associations must notify the Commission in writing within ten (10) days of the date of a change in corporate officers or association members.~~

(b) **Business entity and managing broker responsible for acts.** The managing broker in conjunction with the corporation, ~~or~~ association or business entity is responsible for all acts of the business entity, including the acts of all associates associated with the entity.
(c) **Business entity closing requirements or partial ceasing of real estate activities.** When a corporation, ~~or~~ association or other business entity discontinues a portion of real estate activities or ceases all real estate activities, the business entity is required to comply with the following:

(1) Immediately notify the Commission.
(2) Comply with Section 605:10-13-1(n).

(d) **Group change information.** Under certain circumstances as determined by the Commission, the Commission may place a cap of Seven Hundred Fifty Dollars ($750.00) on group transactions requesting Licenses to be issued. To qualify, such request must be received complete and require no further correspondence and/or documents except for the issuance of the licenses.

~~(c) **Limited liability company.** A limited liability company shall be considered as an association.~~

605:10-7-8.1. Partnership licensing procedures and requirements of good standing [AMENDED]

(a) **Broker license requirement.** Each partnership who performs activities which require a real estate license pursuant to Title 59, O.S., Section 858-102 of the License "Code" shall apply as a real estate broker. Upon approval by the Commission, the partnership shall be granted a real estate broker license. In order to obtain a license, the partnership shall furnish to the satisfaction of the Commission, but not limited to, the following items:

(1) Completed application form(s) and required fee(s).

(2) A written statement signed by all partners attesting to the formation of a partnership and that it is in good standing in the State of Oklahoma.

(3) Partnership must be in compliance with Title 59, O.S., Section 858-312.1 of the License "Code."

(4) Partnership must have a minimum of two managing partners who each hold a separate license as a real estate broker.

(5) The designation of the managing partners shall be established by sworn statement signed by the managing partners of the partnership stating the date and place such action was effected.

(6) In the event of the death or disability of the managing partner(s), or in the event of the retirement or cessation of employment for any reason of the managing partner(s), the partnership is dissolved unless the partnership agreement provides otherwise. If the partnership agreement provides for the continuation of the partnership after the loss of a partner, the partnership shall be required to appoint a new managing partner and such notice of change must be filed in the Commission office no later than thirty (30) working days of the occurrence of the event. The notice of change in managing partners must be accompanied by the appropriate documents as required by the Commission and a ~~Twenty-five Dollar ($25.00)~~Forty Dollar ($40.00) change of status fee.

(b) **Partnership and managing partners responsible for acts.** The managing partners in conjunction with the partnership are responsible for all acts of the partnership, including the acts of all associates associated with the partnership. If a corporation or association is a partner of the partnership a letter must be submitted by the firm acknowledging that the managing member of the association or managing broker of the corporation is responsible for all acts of the partnership, including the acts of all associates associated with the partnership.

(c) **Partnership closing requirements or partial ceasing of real estate activities.** When a partnership discontinues a portion of real estate activities or ceases all real estate activities, the partnership is required to comply with the following:

(1) Immediately notify the Commission.

(2) Comply with Section 605:10-13-1 (n).

~~(d) **Group change information.** Under certain circumstances as determined by the Commission, the Commission may place a cap of Seven Hundred Fifty Dollars ($750.00) on group transactions requesting licenses to be issued. To qualify, such request must be received complete and require no further correspondence and/or documents except for the issuance of the licenses.~~

605:10-7-8.3. Sole Proprietor licensing procedures [AMENDED]

(a) **Sole Proprietor.** A sole proprietor is a broker that is the sole owner of a real estate business/firm. To qualify for a sole proprietorship, the firm shall not conduct business in the name of an entity, i.e., corporation, association (Limited Liability Company) or partnership and the business/firm shall not be owned by any other person or entity. To apply as a sole proprietor one must meet all requirements for a broker license and submit to the Commission the following:

~~(1)~~ Completed sole proprietor broker application form(s) and fee(s) as required by the Commission.

~~(2) An associate release form if previously associated with a sponsoring broker.~~

(b) **Death, disability or retirement.** In the event of the death, disability or retirement of the sole proprietor, the sole proprietor firm shall cease business activities.

(c) **Broker responsible.** A sole proprietor broker is responsible for all acts of associates licensed with the firm.

(d) **Ceasing business activities.** When the sole proprietor discontinues a portion of the real estate activities or ceases all real estate activities, the sole proprietor is required to comply with the following:

(1) Immediately notify the Commission in writing.

(2) Comply with Section 605:10-13-1 (n).

605:10-7-8.4. Corporations or ~~Associations~~Limited Liability Companies formed for the purpose of receiving compensation [AMENDED]

Within the meaning of subsection 14 of Section 858-312 of the "Code" payment of a commission by a broker to a broker or an associate's corporation or ~~association~~ limited liability company does not constitute a payment of a fee (commission) to an unlicensed person provided the corporation or ~~association~~limited liability company and the broker and/or associate abide by the following requirements:

(1) The corporation or ~~association~~limited liability company shall not perform any act requiring a real estate license and shall not:

(A) hold itself out as engaged in any act requiring a real estate license

(B) use the corporation or limited liability company name in any advertising

(C) receive referral fees or commissions except from the licensee's broker

(D) use the same name as a trade name, team name, or licensed brokerage

(2) The licensee requesting registration with the Commission must have an active individual real estate license.

(3) The managing broker must provide approval to the Commission of the ~~broker or associate's~~licensee's corporation or ~~association~~limited liability company.

(4) The licensee requesting registration with the Commission must be the majority stockholder and president of the corporation or majority member of the ~~association.~~limited liability company.

(5) Ownership of the ~~broker or associate's~~ corporation or ~~association~~limited liability company is limited to spouses and blood relatives.

~~(6) The corporation or association limited liability company shall not advertise or receive referral fees or commissions except from the broker.~~

~~(7)~~(6) The licensee requesting registration with the Commission must pay a fifty dollar ($50.00) registration fee and make the following declarations to the Commission:

(A) A statement that the licensee requesting registration with the Commission is the majority stockholder and president of the corporation or majority member of the ~~association~~limited liability company.

(B) Names and relations of all officers/members and/or stockholders.

(C) Verification that the ~~association or~~ corporation or limited liability company is in good standing with the Oklahoma Secretary of State.

~~(8)~~(7) ~~An individual broker or associate~~A licensee may only register one corporation or ~~association~~limited liability company for the purpose of receiving compensation.

(8) The Commission may deny any request to register a corporation or limited liability company formed for the purpose of receiving compensation if the Commission determines the business entity name resembles the name, trade name, or team name of another licensed brokerage so closely that it is likely to confuse the public.

605:10-7-9. Nonresident licensing [AMENDED]

(a) **Nonresident licensed in another jurisdiction.** A nonresident applicant may apply to the Commission for a license to operate as a nonresident by submitting all appropriate documents as required by the Commission and furnish evidence that the applicant possesses a current active license in the applicant's resident jurisdiction or another jurisdiction in which the applicant has qualified for a license. No license shall be issued to any nonresident applicant at a higher level than the highest license of any current active license in the applicant's resident jurisdiction or another jurisdiction in which the applicant has qualified for a license. All nonresidents shall be required to complete the appropriate examination as required by the Commission. All nonresidents shall be required to maintain a registered agent in Oklahoma to accept service of process. No inactive license experience may be credited to qualify under this section. The Commission may issue a nonresident license if such nonresident has qualified and maintains a license in another jurisdiction and meets the following qualifications:

(1) A nonresident applicant who has been actively licensed as a sales associate or broker respectively for a minimum of two (2) years out of the previous ~~five (5) years~~three (3) years.

(A) A nonresident applicant that applies under this paragraph must complete and submit the following:

(i) Appropriate application(s).

(ii) License certification(s) from the jurisdiction in which the applicant has held and/or currently holds a license.

(iii) Criminal history background application, fingerprint card and fee.

(iv) Examination fee and successful completion of the state portion of the examination.

(v) Consent for service of jurisdiction ~~form~~.

(vi) Proof of completion of at least one (1) continuing education clock hour in each of the following Oklahoma-specific subjects: Broker Relationships Act, ~~Contracts and Forms, and~~ Code and Rule Updates, and six (6) hours of Contracts and Forms.

(B) Upon the Commission granting approval to the nonresident applicant for licensure in this jurisdiction, the applicant must complete and submit the following:

(i) appropriate license application form(s) along with license and education and recovery fund fees.

(2) A nonresident applicant who has been actively licensed less than two (2) years as a sales associate or broker respectively out of the previous ~~five (5) years~~three (3) years must successfully complete the appropriate examination.

(A) A nonresident applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application(s).

(ii) License certification(s) from jurisdiction(s) in which the applicant has held and/or currently holds a license.

(iii) Criminal history background application, fingerprint card and fee.

(iv) Examination fee and successful completion of the entire appropriate examination.

(v) Consent for service of jurisdiction ~~form~~.

(vi) Proof of completion of at least one (1) continuing education clock hour in each of the following Oklahoma-specific subjects: Broker Relationships Act, ~~Contracts and Forms, and~~ Code and Rule Updates, and six (6) hours of Contracts and Forms.

(B) Upon the Commission granting approval to the nonresident applicant for licensure in this jurisdiction, the applicant must complete and submit the following:

(i) Appropriate license application form(s) along with license and education and recovery fund fees.

(b) **Nonresident agreement.** The Commission may enter into a nonresident agreement with another jurisdiction and thereby qualify actively licensed nonresident applicants for licensing in this jurisdiction provided the Commission determines that the educational and experience requirements of the other jurisdiction are equivalent or equal to this jurisdiction; however, the applicant shall be required to comply with paragraph (a)(1)(A) and (B) of this section.

(c) **Nonresident applicant that is inactive in another jurisdiction.** A nonresident applicant who holds an inactive license in another jurisdiction and is unable to meet the requirement under paragraph (a) of this section may apply to the Commission for a license to operate as a nonresident provisional sales associate ~~or broker~~ by submitting all appropriate documents and successfully completing all requirements as required by the Commission.

(1) The nonresident applicant must complete and submit the following:

(A) Appropriate application(s).

(B) Criminal history background application, fingerprint card and fee.

(C) Qualify as an original applicant by submitting proof of appropriate required education.

(D) Examination fee and successful completion of the entire appropriate examination.

(E) License certification(s) from the jurisdiction(s) in which the applicant holds or has held a license.

(F) Consent for service of jurisdiction form.

(G) Proof of completion of at least one (1) continuing education clock hour in each of the following Oklahoma-specific subjects: Broker Relationships Act, ~~Contracts and Forms, and~~ Code and Rule Updates, and six (6) hours of Contracts and Forms.

(2) Upon the Commission granting approval to the nonresident applicant for licensure in this jurisdiction, the applicant must complete and submit appropriate license application form(s) along with license and education and recovery fund fees.

(d) **Consent for service of jurisdiction.** Prior to the issuance of a license to a nonresident, such nonresident shall file with the Commission a designation in writing that appoints the Secretary-Treasurer of the Commission to act as the licensed agent, upon whom all judicial and other process or legal notices directed to such nonresident licensee may be served. Service upon the agent so designated shall be equivalent to personal service upon the licensee. Copies of such appointment, certified by the Secretary-Treasurer of the Commission, shall be deemed sufficient evidence thereof and shall be admitted into evidence with the same force and effect as the original thereof. In such written designation, the licensee shall agree and stipulate that any notice or instrument which is served upon such agent shall be of the same legal force and validity as if served upon the licensee, and that the authority shall continue in force so long as any liability remains outstanding in this state. Upon receipt of any such process or notice the Secretary-Treasurer shall forthwith mail a copy of the same, by certified mail, to the last known business address of the licensee.

(e) **License history and application requirements.** Prior to the approval of the application, the nonresident must file with the Commission a certification of licensure from the real estate licensing jurisdiction of the licensee's resident jurisdiction and/or other jurisdictions in which the applicant has held or currently holds a license. The applicant shall pay the Commission the same examination fee and license fee as provided in the "Rules" for the obtaining of a resident sales

associate or broker license in this jurisdiction. The certification of licensure shall be valid for sixty (60) days from date of issuance.
(f) **Approved application valid for ~~ninety (90) days~~one (1) year.** An approved application shall be valid for ~~ninety (90) days~~one (1) year.
(g) **Stipulations.** Nonresident licenses granted under the provisions of this section shall remain in force, only as long as such nonresident remains licensed in good standing in this jurisdiction or any other jurisdiction in which the nonresident is or has been licensed.
(h) **Co-brokerage arrangements.** A broker of this jurisdiction may participate in a cooperative brokerage arrangement with a broker of another jurisdiction provided that each broker conducts real estate activities only in the jurisdiction in which they are licensed.
(i) **Request for license transfer.** In the event a nonresident Oklahoma licensee desires to transfer the license and obtain a resident Oklahoma license or desires to transfer the license to another jurisdiction, the nonresident licensee shall be required to meet all applicable requirements ~~and pay the appropriate change of address fee~~ and submit all appropriate documents as required by the Commission. In the event a resident Oklahoma licensee desires to transfer the license and obtain a nonresident Oklahoma license, the licensee shall be required to pay the appropriate change of address fee and complete and submit all appropriate documents as required by the Commission.
(j) **Continuing education.** If a nonresident licensee completes the continuing education requirement of another jurisdiction for license renewal, the Commission will require proof of completion of at least one (1) continuing education clock hour in ~~each of the following Oklahoma-specific subjects for license renewal:~~ Broker Relationships Act, ~~Contracts and Forms, and~~ Code and Rule Updates, and six (6) hours of Contracts and Forms. If a nonresident licensee is exempt from meeting a continuing education requirement in another jurisdiction then the licensee must meet the Oklahoma continuing education requirement as follow:

(1) Each nonresident licensee shall complete ~~have completed of said twenty-one (21) clock hours of continuing educationsix (6)~~thirteen (13) clock hours of required subject matter as directed by the Commission.
(2) The required subject matter, or its equivalent, as determined by the Commission, shall consist at least one (1) hour of all following subjects each license term: ~~Professional Conduct,~~ Broker Relationships Act, Fair Housing, ~~Contracts and Forms,~~ Code and Rules Updates, ~~and~~ Current Issues, six (6) hours of Contracts and Forms, and three (3) hours of Professional Conduct. The remaining ~~fifteen (15)~~seventeen (17) clock hours may consist of elective subject matter as approved by the Commission.
(3) Any licensee may complete the Broker in Charge course as approved by the Commission consisting of fifteen (15) clock hours in lieu of the required subject matter.
(4) Any Broker who holds or has held a license type of Broker Manager (BM), Proprietor Broker (BP), or Branch Broker (BB) during any portion of their current license term shall be required to successfully complete the Broker in Charge course ~~as approved by the Commission~~ consisting of fifteen (15) clock hours, or its equivalent, as approved by the Commission. In addition, to ~~complete~~satisfy the continuing education requirement of ~~twenty-one (21)~~thirty (30) clock hours, such broker shall complete at least ~~two (2) of the six (6) required subject matter, equal to at least six (6) clock hours, as referenced in paragraph (2) of this subsection.~~six (6) hours of Contracts and Forms education. The remaining hours may consist of electives.
(5) Any broker that lapsed or renewed inactive in their previous license term or current license term who applies for reinstatement or activation and held in their previous or current license term the license type of Broker Manager (BM), Proprietor Broker (BP), or Branch Broker (BB) must complete the Broker in Charge course, ~~andtwo (2) of the six (6) required subject matter~~six (6) hours of Contracts and Forms, ~~totaling six (6)~~ hours and nine (9) hours of electives prior to their license being reinstated active or reactivating.

(k) Any broker applying for reinstatement or activation as a Broker Manager, Proprietor Broker, or Branch Broker must~~:~~ provide documentation verifying completion of ten (10) real estate transactions within the past five (5) years or the equivalent as determined by the Commission. For purposes of this section, transaction shall be defined as the completed sale, exchange, purchase or lease of real estate and shall be demonstrated on forms developed by the Commission.

~~(1) provide documentation verifying ten real estate transactions within the past five (5) years or the equivalent as determined by the Commission; and~~
~~(2) successfully complete the Broker in Charge course as approved by the Commission consisting of fifteen (15) clock hours in lieu of the required subject matter.~~

~~(l) For the purposes of this subsection (k), transaction shall be defined in Title 59 O.S. Section 858-351 and shall be demonstrated on forms developed by the Commission.~~

605:10-7-10. Resident applicants currently or previously licensed in other jurisdictions [AMENDED]

(a) **Requirements.** In order to qualify under previously licensed procedures, an applicant must complete and submit all appropriate documents as required by the Commission and furnish evidence that the applicant possesses or has possessed a license in good standing in another jurisdiction. Applications approved for resident applicants currently or previously licensed in other jurisdictions shall be valid for ninety (90) days. The Commission may issue the applicant a license if such previously licensed applicant meets all of the requirements of either paragraphs (1), (2), (3) or (4) of this subsection:

(1) If a nonresident agreement exists between Oklahoma and the jurisdiction in which the applicant qualified for a license, the Commission shall qualify the licensed applicant through the nonresident agreement. ~~In order to qualify under this paragraph an individual must furnish evidence that the license from the former jurisdiction has not been inactive more than six (6) months prior to application to this jurisdiction~~.

(A) An applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application(s).

(ii) License certification(s) from the jurisdiction(s) in which the applicant has held or currently holds a license.

(iii) Criminal history background application, fingerprint card and fee.

(iv) Examination fee and successful completion of the state portion of the examination.

(v) Proof of completion of at least one (1) continuing education clock hour in each of the following Oklahoma-specific subjects: Broker Relationships Act, ~~Contracts and Forms, and~~ Code and Rule Updates, and six (6) hours of Contracts and Forms.

(B) Upon the Commission granting approval to the applicant for licensure in this jurisdiction, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a sales associate, broker associate or broker license.

(2) If a nonresident agreement does not exist, the applicant shall be required to furnish evidence of two (2) years of active experience respectively as a sales associate or broker out of the previous five (5) years. ~~In order to qualify under this paragraph an individual must furnish evidence that the license from the former jurisdiction has not been inactive more than six (6) months prior to application to this jurisdiction.~~

(A) An applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application(s).

(ii) License certification(s) from the jurisdiction(s) in which the applicant has held or currently holds a license.

(iii) Criminal history background application, fingerprint card and fee.

(iv) Examination fee and successful completion of the state portion of the examination.

(v) Proof of completion of at least one (1) continuing education clock hour in each of the following Oklahoma-specific subjects: Broker Relationships Act, Contracts and Forms, and Code and Rule Updates.

(B) Upon the Commission granting approval to the applicant for licensure in this jurisdiction, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a sales associate, broker associate or broker license.

(3) An applicant who does not possess the required two (2) years active experience out of the previous five (5) years respectively as a sales associate or broker, or an applicant who does not meet all of the requirements of either paragraphs (1) or (2) of this subsection, shall be required to apply as an original applicant.

(A) An applicant applying under this paragraph must complete and submit the following:

(i) Qualify as an original applicant by submitting appropriate required education and application.

(ii) License certification(s) from the jurisdiction(s) in which the applicant has held or currently holds a license.

(iii) Criminal history background application, fingerprint card and fee.

(iv) Examination fee and successful completion of the entire appropriate examination.

(v) Proof of completion of at least one (1) continuing education clock hour in each of the following Oklahoma-specific subjects: Broker Relationships Act, ~~Contracts and Forms, and~~ Code and Rule Updates, and six (6) hours of Contracts and Forms.

(B) Upon the Commission granting approval to the applicant for licensure in this jurisdiction, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a provisional sales associate, broker associate or broker license.

(4) In accordance with Title 59, O.S., Section 4100.4 of the Post-Military Service Occupation, Education and Credentialing Act, the Commission shall, upon satisfactory evidence of equivalent education, training and experience by an applicant for licensure, accept the education, training and experience completed by the applicant as a member of the Armed Forces or Reserves of the United States, National Guard of any jurisdiction, the Military Reserves of any jurisdiction, or the Naval Militias of any jurisdiction, and apply it in the manner most favorable toward satisfying the applicant's qualifications for examination and license issuance.

(A) An applicant applying under this paragraph must complete and submit the following:

(i) Appropriate application(s).

(ii) Satisfactory evidence of education, training and experience obtained by the applicant as a member of the military Armed Forces or Reserves of the United States.

(iii) License certification(s) from the jurisdiction(s) in which the applicant has held or currently holds a license.

(iv) Criminal history background application, fingerprint card and fee.

(v) Examination fee and successful completion of the entire appropriate examination.

(B) Upon the Commission granting approval to the applicant for licensure in this jurisdiction, the applicant must complete and submit the appropriate license application form(s) along with license and education and recovery fund fees.

(C) An applicant qualifying under this paragraph will be issued either a provisional sales associate, broker associate or broker license.

~~(b) **May be required to meet additional requirements.** If, in the opinion of the Commission, there is question as to the competence of the previously licensed applicant, the individual may be required to meet additional educational courses and/or successfully complete the Oklahoma examination.~~

~~(c)~~(b) Active duty military and military spouse applicants may utilize licensure methods provided for in 59 O.S. § 4100 *et seq.* as appropriate.

605:10-7-11. Applicant criminal history [AMENDED]

(a) This section establishes the criteria utilized by the Commission in determining the effect of criminal history on applicant eligibility for real estate licensure and certification. This section applies to:

(1) All individuals seeking to obtain a real estate license;

(2) All individuals seeking an initial determination of their eligibility to obtain a real estate license.

(b) The Commission shall maintain a list of crimes that disqualify an applicant from obtaining a real estate license in compliance with 59 O.S. § 858-301.1. The crimes included on the list substantially relate to the practice of real estate and pose a reasonable threat to public safety for the reasons stated below:

(1) Real Estate Licensees have unique access to residential homes and commercial buildings.

(2) Real Estate Licensees have daily contact with the public and individuals in the occupation.

(3) Real Estate Licensees play a vital role in assisting the public with substantial long-term financial obligations.

(c) The Commission's list of disqualifying crimes is available on the Commission's website or upon request by contacting the Commission office.

(d) The Commission reserves the right to modify such list at any time.

~~(d)~~(e) Individuals may request an initial determination from the Commission regarding whether the individual's criminal history disqualifies that individual from obtaining a real estate license. Such request must be in writing and directed to the Oklahoma Real Estate Commission. The individual must submit a copy of their criminal history and any related documents and court records that specify the criminal history of the individual. A fifty dollar ($50.00) fee shall accompany any request for initial determination. The fee shall be collected by the Commission prior to the determination.

~~(e)~~(f) Individuals may appeal the Commission's initial determination of disqualification by submitting a request in writing of the circumstances the individual would like the Commission to consider. The Commission may discuss the individual appeals at any scheduled meeting of the Commission.

SUBCHAPTER 9. BROKER'S OPERATIONAL PROCEDURES

605:10-9-3. Trade names [AMENDED]

Each licensed broker or entity must register in writing to the Commission all trade names used in connection with real estate activities prior to the trade name being advertised or displayed in any way. Further, each broker is to notify the Commission in writing of all deleted or unused trade names. The registration of each trade name must be accompanied by a twenty five dollar ($25.00) registration fee. The Commission reserves the right to deny a trade name submission if the submission is too similar to an existing trade name or licensed real estate brokerage that approval will likely confuse the public.

605:10-9-3.2. Team registration and fees [AMENDED]

(a) The broker shall register each team within the brokerage with the Commission on a form prescribed by the Commission. The fee for each team name registration shall be $100.00.
(b) Each team name must be approved by the broker and must be unique and not registered to another real estate team within the State of Oklahoma, and must not be identical to any association, corporation or partnership licensed as a real estate entity by the Commission.
(c) The broker shall not allow any team name identical to an associate's corporation or ~~association~~ limited liability company formed for the purpose of receiving compensation.
(d) Each team name must be registered to the Commission prior to the performance of any licensable activities by the team.
(e) It shall be prohibited for a broker to register any team name that is not being used by a team within their brokerage.
(f) The broker shall maintain and keep current a list of teams and their respective members, in writing, within the brokerage. Copies of this list shall be made available immediately to the Commission upon request.
(g) The broker shall notify the Commission, in writing, of all deleted or unused team names.
(h) Team members must maintain an active Oklahoma real estate license.
(i) All registered team names shall contain the word "team" or "group".
(j) The Commission reserves the right to deny a team name submission if the submissions is too similar to an existing team name, trade name or licensed real estate brokerage such that approval will likely confuse the public.

605:10-9-4. Advertising [AMENDED]

(a) **Requirements and prohibitions.**

(1) A broker, when advertising, must use their registered business trade name or the name under which the broker is licensed; however, yard signs must also include the broker's office telephone number. A firm shall not register or use a trade name of another licensed firm. In addition, the advertisement must indicate that the party is a real estate broker and not a private party, to include, but not limited to, "agency", "company", "realty", or "real estate", as the case may be. Legal abbreviations following the trade name or name under which the broker is licensed shall be acceptable as long as they are easily identifiable by the public as such.
(2) No real estate advertisement shall show only a post office box number, telephone number or street address.
(3) A broker, when operating under a franchise name, shall clearly reveal in all office identification and in all advertising other than institutional type advertising designed to promote a common name, the franchise name along with the name of the broker or business trade name as registered with the Commission. A franchise name shall not be the complete business trade name. All institutional type franchise advertising shall indicate that each office is independently owned and operated.
(4) A licensee shall not advertise, either personally or through any media, to sell, buy, exchange, rent, or lease property when such advertisement is directed at or referred to persons of a particular race, color, creed, religion, national origin, familial status or handicap. The contents of any advertisement must be confined to information relative to the property itself, and any advertisement which is directed at or referred to persons of any particular race, color, creed, religion, national origin, familial status, age or handicap is prohibited.
(5) Any advertising in any media which is misleading or inaccurate in any material fact or in any way misrepresents any property, terms, values, services, or policies is prohibited.
(6) A licensee shall not advertise any property for sale, rent, lease, or exchange in any media unless the broker has first secured the permission of the owner or the owner's authorized representative and said permission has a definite date of expiration.
(7) Social networking. A licensee who is engaged in licensed activities through social networking mediums must indicate their license status and include their broker's reference as required elsewhere in this rule.
(8) A licensee shall not use a yard sign at the licensee's personal residence as a marketing tool, to make it appear the real property is for sale, lease or rent when such is not the case.

(9) A broker may, or authorize an associate to, promote a seller incentive with the consent of the seller. The publicity must clearly indicate the incentive is being offered by the seller and not by the licensee and that the promotion only applies to a seller's particular property or properties.

(b) **Associates advertising.**

(1) An associate is prohibited from advertising under only the associate's name.

(2) All advertising by an associate must be under the direct supervision of the associate's broker.

(3) In all advertising, the associate must include the name of the associate's broker or the name under which the broker operates, in such a way that the broker's reference is prominent, conspicuous and easily identifiable. For the purposes of this section, "prominent, conspicuous and easily identifiable" means that the broker's reference shall be at least fifty percent (50%) or larger than any associate reference included in the advertisement. If approved by a broker, an associate may include in the advertisement:

(A) The associate's personal insignia of which such approval is to be maintained by the broker and which cannot be construed as that of a firm's name.

(B) The associate's personal nickname or alias which must be registered at the Commission prior to its use and which cannot be construed as that of a firm's name.

(C) An associate's contact information.

(D) A slogan which cannot be construed as that of a firm's name.

(E) A domain/website name that is registered with the broker. Within this domain/website, the broker's reference shall appear on every individual page and/or frame.

(4) An associate's contact information may be added to a yard sign if the yard sign contains the registered name or trade name and office telephone number of the broker so long as it is approved by the broker.

(5) Open house or directional signs used in conjunction with broker's signs do not have to contain the name or trade name of the associate's broker and broker's telephone number.

(c) **Team advertising.**

(1) A team is prohibited from advertising only under the team name.

(2) All advertising by a team must be under the direct supervision of the team's broker.

(3) All team advertising must include the name of the team's broker or the name under which the broker operates, in such a way that the broker's reference is prominent, conspicuous and easily identifiable. For the purposes of this section, "prominent, conspicuous and easily identifiable" means that the broker's reference shall be at least fifty percent (50%) or larger than any team reference included in the advertisement. If approved by the broker, a team may include in the advertisement:

(A) The team's personal insignia of which such approval is to be maintained by the broker.

(B) The team's contact information.

(C) A team slogan approved by the broker.

(D) A domain/website name that is registered with the broker. Within this domain/website, the broker's reference shall appear on every individual page and/or frame.

(d) **Licensee acting as owner, purchaser or direct employee of owner.**

(1) When a licensee, either active or inactive, is purchasing real estate or is the owner of property that is being sold, exchanged, rented or leased and such is being handled either by the licensee or marketed through a real estate firm, the licensee is required to disclose in writing on all documents that pertain to the transaction and in all advertisements that he or she is licensed. On all purchase or lease contracts the licensee is to include their license number.

(2) A licensee who is not acting in the capacity of a licensee but is engaged in buying, selling, leasing or renting real estate as a direct employee for the owner or as an officer for an entity is not required to indicate in the advertising that he or she is licensed.

(3) A licensee acting under power of attorney must disclose on all documents that pertain to a transaction and in all advertising that he or she is licensed.

605:10-9-6. Death or disability of broker [AMENDED]

Upon the death or inability of a broker to act as a broker the following procedures shall apply:

(1) In the case of a corporation, association or partnership, the provisions of 605:10-7-8 ~~relating to corporations, 605:10-7-8.2 relating to associations,~~ and 605:10-7-8.1 ~~relating to partnerships~~ shall apply.

(2) In the case of a sole proprietor all brokerage activity must cease and a family attorney or representative should perform the following:

(A) Notify the Commission in writing of the date of death or disability.

(B) Advise the Commission as to the location where records will be stored. Such records may be assigned to another broker.
(C) ~~Return~~Destroy the broker's license certificate and pocket identification card and all license certificates of those associated with the broker. ~~to the Commission and advise the Commission as to the circumstances involving any not returned.~~
(D) Notify each listing and management client in writing that the broker is no longer in business and that the client may enter a new listing or management agreement with the firm of his or her choice.
(E) Notify each party and co-broker to any existing contracts.
(F) Retain trust account monies under the control of the administrator, executor or co-signer on the account until such time as all parties to each transaction agree in writing to disposition or until a court of competent jurisdiction issues an order relative to disposition.
(G) Notify the Commission of the date the trust account will be closed.
(H) All advertising in the name of the firm must be terminated and offering signs removed within thirty (30) days of death or disability of the broker.

(3) In the case of a corporation, association or partnership which ceases all brokerage activity, the provisions of paragraph (2) of this Section apply.

605:10-9-8. Branch office closing instructions [AMENDED]

The Commission must receive in writing, the requirements listed in this Section at the time notice is given to the Commission that the branch office has closed; however, a written request may be submitted to the Commission for approval to extend the period for submitting such documents and information. Unless specifically approved otherwise by the Commission, a real estate branch office shall be closed by the main office broker in the following manner:

(1) Notify the Commission in writing of the date the branch office will close and advise as to the location where records will be stored and retained for a minimum of five (5) years in conformance with 605:10-13-1 (1).
(2) Return the branch office license certificate and pocket identification card along with all license certificates of those associated with the branch office to the Commission and advise the Commission as to the circumstances involving any not returned.
(3) Release forms must be filed for all licensees affiliated with the branch office.
(4) The branch ~~office~~ broker must either transfer his or her license to a firm of his or her choice or place his or her license on inactive status.
(5) If the main office is not going to service the branch office's existing listing and management clients, as well as parties and co-brokers to existing contracts, notice is to be sent in writing advising all parties of the date the branch office will close and advise each client that he or she may enter a new listing or management agreement with a firm of his or her choice.
(6) All advertising in the name of the branch office must be terminated and offering signs removed within thirty (30) days of office closing.
(7) Trust account funds and pending contracts must be maintained by the responsible broker until final proper disbursal or until new agreements are secured from all parties for transfer of the funds and/or contracts. The Commission is to be notified in writing of any accounts that are closed.

SUBCHAPTER 11. ASSOCIATE'S LICENSING PROCEDURES

605:10-11-2. Associate licenses [AMENDED]

(a) **License issuance and change request.** Each associate license shall be issued electronically to each associate through the individual License Portal. Upon an associate leaving the association of the broker, the associate's license shall be updated electronically after receiving a release or transfer executed by the broker. Any change of association from one firm to another, or relocation from one office to another within a firm by an associate must be filed in the Commission office within ten (10) days. The associate's new broker shall be required to provide consent to sponsor the associate with the Commission. An associate requesting an association or office change shall be required to pay a fee of Forty Dollars ($40.00).
(b) **Broker refusal to release associate.** In the event a broker refuses for any reason to release an associate, the associate shall notify the broker and Commission in writing of the disassociation. Upon receipt by the Commission of ~~the aforementioned statement~~such notice, the Commission will provide one (1) additional email notice to the broker and shall release the licensee within ~~two (2)~~three (3) business days.

(c) **Associates transfer.** When an affiliated associate leaves a broker for whom the associate is acting, the broker shall make every attempt to notify the associate of the disassociation.
(d) **Active associate may continually act.** An active associate transferring from one broker to a new broker may continually act if the change is done in a timely manner and in compliance with the ten (10) day notification requirement and other applicable rules of this Chapter.
(e) **Compensation due a disassociated associate.** A previous broker may pay compensation due a disassociated associate directly to the associate and not be required to make the payment through the associate's new broker. However, any agreements between the associate and prior broker requiring further activities to be performed in connection with the compensation to be received, can only be performed with consent and acknowledgement of the new broker.
(f) **Change of home address.** An associate is required to notify the Commission office of his or her current home address. The change shall be filed in the Commission office within ten (10) days of change.

SUBCHAPTER 13. TRUST ACCOUNT PROCEDURES

605:10-13-1. Duty to account; broker [AMENDED]
(a) **Deposit and account of trust/escrow funds.**

(1) The obligation of a broker to remit monies, valuable documents and other property coming into his or her possession within the meaning of subparagraph six (6), Section 858-312 of the "Code" shall be construed to include, but shall not be limited to, the following:

(A) Shall deposit all checks and monies of whatever kind and nature belonging to others in a separate account in a financial institution wherein the deposits are insured by an agency of the federal government. Any damage or security deposit required by a landlord of a tenant must be kept in an escrow account maintained in Oklahoma with a federally insured financial institution in compliance with 41 O.S. Section 115.
(B) The broker is required to be a signor on any brokerage account where such funds are held.
(C) Any brokerage account where such funds are held must be in the name of the broker or brokerage as it appears on the license or trade name as registered with the Commission and styled as a trust or escrow account and shall be maintained by the broker as a depository for deposits belonging to others.
(D) All escrow funds shall be deposited before the end of the third banking day following acceptance of an offer by an offeree or receipt of escrow funds unless otherwise agreed to in writing by all interested parties.
(E) The broker shall ensure such funds are maintained in said account until the transaction involved is consummated or terminated and proper accounting made.
(F) The broker shall at all times, maintain an accurate and detailed record thereof.

(2) Funds referred to in this subsection shall include, but are not limited to earnest money deposits, money received upon final settlements, rents, security deposits and other deposits as required by landlord or broker, money advanced by buyer or seller for the payment of expenses in connection with closing of real estate transactions, and money advanced by his or her principal or others for expenditures on behalf of subject principal.

(b) **Commingling prohibited.** A broker may not keep any personal funds in the trust account except amounts sufficient to insure the integrity of the account and cover any charges made by the financial institution for servicing the trust or escrow account.
(c) **Interest bearing account.** A broker shall not be prohibited from placing escrow monies in an interest bearing account; however, he or she must disclose in writing to all parties that the account bears interest and identify the party receiving the interest. The Commission does not prohibit the broker from receiving the earned interest. In the event the interest is credited to the broker, the broker should, upon final consummation of the transaction, immediately disburse the interest from the account or insure that the amount does not exceed a reasonable amount to cover normal financial institution charges. The broker is required to maintain complete and accurate records of the interest earned. The interest bearing account must be a demand type account; this prohibits the use of certificate of deposit or other types of time deposits as trust/escrow accounts.
(d) **Trust account not mandatory unless funds or items are held.** A broker shall not be required to maintain a trust or escrow account unless monies or other depositable items belonging to others are accepted by the broker and require the broker to place the monies or items in the broker's trust account.

(e) **Trust accounts must be registered with commission.** A broker shall be required to notify the Commission in writing of all trust or escrow accounts, security deposit accounts, rental management operating accounts, and interest bearing accounts in which trust funds are held. Further, if a broker is a signor on a principal's account, the broker shall register that account as a trust account. A broker shall inform the Commission in writing of any accounts which are closed and no longer in use.
(f) **Settlement statement to be furnished.** A broker shall insure that a signed settlement statement is furnished in each real estate transaction wherein he or she acts as broker, at the time such transaction is consummated.
(g) **Payment of funds.** A broker shall pay over all sums of money held by him or her promptly after the closing of any transaction, provided, that upon any hearing to suspend or revoke his or her license under this Section, the failure to pay over any sums of money held by him or her within three (3) days after a closing shall be prima facie evidence of a violation by such person under the provisions of this Section.
(h) **Return of earnest money or items.** In the event a transaction does not consummate, a broker shall promptly disburse the earnest money or items to the proper party in accordance with the terms of the contract. In the event a dispute arises prior to the disbursement, the broker shall follow rule 605:10-13-3 or may file an interpleader action with the appropriate court.
(i) **Documents, items, or monies furnished to all parties.** A broker shall insure the timely delivery or return of all documents, items or monies to a party to a transaction wherein the broker or the broker's associate have provided services.
(j) **Inform all parties pertaining to escrow being held.** A broker shall insure that all parties of each transaction are informed of the details relating to the escrow including, but not limited to, a statement as to the nature of a non-depositable item, the value of the item, and in whose custody the item is being placed.
(k) **Bookkeeping system required.** A broker shall maintain a bookkeeping system i.e., canceled checks, check book, deposit receipts, general accounts ledger, etc. which will accurately and clearly disclose full compliance with the Law relating to the maintaining of trust accounts.
(l) **Record retention.** A broker shall maintain all records and files for a minimum of five (5) years after consummation or termination of a transaction. In the case of trust account records the five years shall commence with the date of disbursal of funds. Records as referenced in this paragraph shall be destroyed in a secure manner.
(m) **Requirements for storage of records on alternative media.** The Real Estate Commission establishes the following requirements for storage of trust account and transaction records stored on alternative media. Alternative media is defined as media that uses an electronic device to store or retrieve the information that pertains to the trust account and transaction documentation. This requirement applies to any computer technology utilized by the broker to create, store or retrieve the aforementioned documentation, whether the computerized device is internal or external to the broker's computer equipment. If a broker utilizes his own equipment or a third party vendor to create, store or retrieve this information, the broker shall ensure that the documentation is maintained and able to be retrieved for the five (5) year time period as required by the Commission.

(1) Trust account records shall be maintained by the broker in their original format for a minimum of two (2) years. Trust account records may then be transferred to an alternative media for the remaining required record retention time.
(2) Records, with the exception of trust account records, may be transferred at any time to an alternative media for the remaining required retention time.
(3) After documents are converted to alternative media, a quality assurance check shall be done to ensure that every document was imaged and can be reproduced in a legible and readable condition on a display device. If requested documentation is irretrievable, the Commission may take disciplinary action for failure to properly retain records.
(4) After the quality assurance check is completed, the original documents may be destroyed.
(5) A broker shall maintain the alternative media and a means of viewing and retrieving records, and shall provide a true, correct and legible paper copy to the Commission upon request.
(6) A broker shall store copies of the alternative media and the equipment used to read the media in an environment and at a level of quality conducive to maintain the ability to reproduce the media throughout the retention period. Reproduce means a process in which a document can be converted from the alternative media to a paper copy that is legible and able to be read.

(n) **Cessation of real estate activities.** Upon a firm ceasing a portion of real estate activities or ceasing all real estate activities the broker shall:

(1) Notify the Commission in writing of the effective date of such action and advise as to the location where records will be stored and comply with the following:

(A) Return or destroy the broker's license certificate and pocket identification card and all license certificates of those associated with the broker to the Commission and advise the Commission as to the circumstances involving any not returned.
(B) Release forms must be filed for all licensees affiliated with the firm.
(C) The broker must either transfer to a new firm or place his or her license on inactive status.

(2) Notify in writing all listing and management clients, as well as parties and co-brokers to existing contracts advising them of the date of cessation of real estate activities.
(3) All advertising in the name of the firm must be terminated and offering signs removed within thirty (30) days of cessation of real estate activities.
(4) Funds in trust accounts and pending contracts must be maintained by the responsible broker until consummation of transaction and final proper disbursal of funds. Upon final disbursements of funds the broker is required to close the account and notify the Commission in writing that the account is closed.
(5) In the event the responsible broker is unable to continue to maintain the funds and/or pending contracts, funds and/or pending contracts may be transferred to another authorized broker, entity or legal representative until consummation and proper disbursal of funds. In this event, the broker must submit a request in writing to the Commission for approval to transfer the contracts and/or funds. Upon written approval by the Commission, the broker must secure approval and obtain new agreements from all parties for transfer of the contracts and/or funds.
(6) If funds, items and/or contracts are transferred to another authorized broker, entity or legal representative and approved by the Commission, the broker transferring such shall be required to compile a record of the following, retain a copy for his or her file and give a copy to the receiving authorized broker, entity or legal representative:

(A) A copy of the written approval from the Commission authorizing the transfer of the contracts and/or funds.
(B) The name and address of the authorized broker, entity or legal representative.
(C) A trust account reconciliation sheet indicating ledger balance and financial institution balance at time of transfer to include the name of each depositor, amount of deposit, date, and purpose of the deposit.
(D) A statement indicating that written agreements were obtained from all parties to each transaction agreeing to the transfer of the funds and/or contracts to another responsible broker, authorized entity or legal representative and that each depositor was notified of the effective date of transfer, and the name of the responsible person or entity.

(7) Any firm merger shall have a thirty (30) day time period in which to provide the Commission the documentation as referenced in subparagraph (n) of this rule. Firm merger means that a licensed firm has been acquired by another licensed firm and the firm that was acquired is ceasing a portion or all of its licensed activities.

(o) **Security breach of personal information.**

(1) Security breach of personal information as defined in Title 24, Oklahoma Statutes, Sections 161-166 means the unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security or confidentiality of personal information maintained by a licensee as part of a database of personal information regarding multiple persons. Personal information means the first name or first initial and last name in combination with and linked to any one or more of the following data elements:

(A) social security number,
(B) driver license number or state identification card number issued in lieu of a driver license, or
(C) financial account number, or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to the financial accounts.

(2) The breach of information would not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public.
(3) In the event personal information is breached, the licensee is required to send notice to the Commission and to all concerned persons whose information was breached by an unauthorized person or source as required in Title 24, O.S., Section 162 . The licensee is required to comply with all requirements within the Security Breach Notification Act or be subject to disciplinary action by the Commission.

SUBCHAPTER 15. DISCLOSURES, BROKERAGE SERVICES AND STATUTE OF FRAUDS

605:10-15-1. Disclosure of beneficial interest or referrals [AMENDED]

(a) No licensee shall, without disclosing such fact in writing to all parties on both sides of the transaction, either:

(1) Accept or receive any fee, commission, salary, rebate, kickback or other compensation or consideration allowed by law in connection with the recommendation, referral or procurement of any product or service, including financial services.
(2) Own any beneficial interest in any entity which provides any product or service to the consumer(s) or services the transaction, including financial services to home owners, home buyers or tenants, in connection with the sale, lease, rental or listing of any real estate. Activities or interests of associates shall ordinarily be disclosed to his or her broker who shall have the primary responsibility to make written disclosures covered by this Section to the parties.

(b) If any associate owns any beneficial interest in any entity which provides any product or service to the consumer or to the transaction, including financial services, to home owners, home buyers, or tenants, the associate shall disclose the nature and extent of such interest to his or her broker. The obligation to make such disclosure shall be a continuing one.

(c) Notwithstanding the provisions of this Section, disclosure of a beneficial interest shall not be required if either:
(1) The beneficial interest consists solely of a stock or other equity ownership in a publicly traded company where such ownership is less than one percent (1%) of the total equity value of such entity.
(2) Such beneficial interest consists solely of a stock or other equity interest in a privately held company in which the aggregate ownership of all licensees employed by the firm otherwise required to make the disclosure does not exceed ten percent (10%) of the equity value of the company and where the licensee is not an officer, director, managing partner or otherwise directly or indirectly is in control of the entity which provides any product or service covered by this Section.

(d) ~~No particular form of disclosure shall be prescribed by the Commission.~~ All disclosures required by this Section shall be made in writing:
(1) Either prior to or at the time that any recommendation, referral or procurement of any product or service is made in instances in which the licensee may receive any compensation or consideration in connection therewith.
(2) At or before the time that it becomes apparent to the licensee that any entity in which the licensee owns any beneficial interest may provide any product or service in instances in which the disclosure of any such ownership is required under this Section. All disclosures required by this Section shall be judged by the standard of whether the disclosure was adequate to inform all parties on both sides of the transaction of the existence of a beneficial interest covered by this Section or, if a party claims not to have been adequately informed, whether the form and manner in which the disclosure was made was adequate under the circumstances to inform a person of ordinary intelligence and understanding, not possessing expertise in real estate or financial matters, of the existence of any fee, compensation, salary, rebate, kickback or other compensation or consideration or the ownership of a beneficial interest in an entity providing products or services covered by this Section.

(e) The failure by a licensee to observe any provision of this Section shall be deemed to be a violation of subsections 2, 3, 8 and 15 of Section 858-312 of the Code and in the case of an associate, a violation of subsection 4 of Section 858-312 of the Code as well.

605:10-15-2. Broker Relationships ~~Act to become effective November 1, 2013~~ [AMENDED]

~~(a) **Broker Relationships Act effective November 1, 2013.** A new law, Title 59, O. S., Sections 858-351 through 858-363 of the License Code, becomes effective on November 1, 2013, which law shall be referred to as the Broker Relationships Act.~~

~~(b)~~(a) **Brokerage service agreement defined.** The term "brokerage service agreement" shall mean an oral or written agreement to provide brokerage services entered into by a real estate broker and a person who is a party to a real estate transaction and shall include, but not be limited to, listing agreements, buyer broker agreements and property management agreements.

~~(c)~~(b) **Validity of a brokerage service agreement ~~existing before and on November 1, 2013.~~** A brokerage service agreement ~~entered into prior to November 1, 2013,~~ shall remain in full force and effect until the agreement expires or is otherwise terminated by an agreement of the parties.

~~(d)~~(c) **Providing services to more than one party to the transaction.** When a firm provides brokerage services to more than one party to the transaction, the broker shall provide written notice to those parties that the broker is providing brokerage services to more than one party. When a firm provides brokerage services to both sides of the transaction, the firm shall ensure compliance with the duties and responsibilities in Title 59, O.S., Section 858-353 along with all other requirements of the License Code and Rules.

~~(e)~~(d) **Services provided to a tenant.** When a broker provides brokerage services to a landlord under a property management agreement, the services provided to the tenant by the broker shall not be construed as creating a broker relationship between the broker and the tenant unless otherwise agreed to in writing; however, the broker owes to the tenant the duties of honesty and exercising reasonable skill and care.

605:10-15-4. Residential Property Condition Disclosure Act forms [AMENDED]

(a) **Development and amendment of forms.** In accordance with Oklahoma Statutes, Title 60, Section 833 the Commission shall develop and amend by rule the forms for the Residential Property Condition Disclosure Statement and Residential Property Condition Disclaimer Statement. ~~Effective July 11, 2008thedisclosure statement is amended and all disclosure forms executed prior to July 11, 2008 will remain in force and valid until expiration of the 180 days from the date noted thereon.~~

(b) **Availability of forms.** The forms shall be available to the public upon request. ~~on and after July 1, 1995.~~

(c) **Copy of form format.** The Residential Property Condition Disclosure Statement as referenced in this section is set out in Appendix A at the end of this Chapter. The Residential Property Condition Disclaimer Statement as referenced in this section is set out in Appendix B at the end of this Chapter.

SUBCHAPTER 17. CAUSES FOR INVESTIGATION; HEARING PROCESS; PROHIBITED ACTS; DISCIPLINE

605:10-17-1.1. Definitions [NEW]

The following words and terms, as used in this subchapter shall have the following meaning, unless the context indicates otherwise:

"Complaint" means a formal allegation of alleged violation(s) of the Code on the part of a licensee or any unlicensed person.

"Formal Hearing" means the trial mechanism employed by the Commission to provide due process to a respondent when the Commission lodges formal charges against a respondent.

"Hearing Examiner" means any person appointed by the Commission to oversee formal hearings.

"Respondent" means a licensee or any unlicensed person or company who is the subject of a complaint.

605:10-17-2. Complaint procedures [AMENDED]

(a) **Complaint may be filed by public or Commission's own motion.** A complaint brought pursuant to the Code alleging misconduct on the part of a licensee or any unlicensed person who violates provisions of the Code may be filed by any person in writing on a form supplied by the Commission, or may be ordered by the Commission on its own motion. The Commission will accept a complaint alleging misconduct on a form not supplied by the Commission. ~~if such form is notarized by a notary public.~~

(b) **Complaint notification; required response.** When a complaint has been filed pursuant to the Code, the licensee or unlicensed person pursuant to the Code shall be immediately notified and shall be required to file an adequate written response within fifteen (15) days of the notice. Written responses are filed with the Commission if mailed and/or emailed to the Commission at investigations@orec.ok.gov. If the response is emailed, you must include the case number, the name of the party your response is submitted on behalf of, and "Response to Complaint" in the subject line. If an adequate written response is not filed within fifteen (15) days, the respondent shall be considered in default and appropriate sanctions may be imposed, if the evidence is deemed sufficient by the Commission. The Secretary-Treasurer may, upon request, extend the time within which a response must be filed.

~~(c) **Investigation and/or investigative session.** Subsequent to the fifteen (15) day answer period, the Commission may continue to investigate the complaint to ascertain whether or not charges should be lodged and a formal hearing ordered. Such investigation shall be under the supervision of the Secretary-Treasurer of the Commission. He or she may designate an attorney who will act as prosecutor for the Commission to examine any results of the investigation. The prosecutor so designated may in the name of the Commission subpoena witnesses, take testimony by deposition and compel the production of records and documents bearing upon the complaint.~~

(c) **Service of complaint and other notices.** Service of a complaint or any other notice or report outlined in this subchapter may be achieved by any service method authorized by state law, including mailing a copy by certified mail to a respondent's last known address. If a respondent is an associate associated with a broker, the Commission shall notify the associated broker in a like manner.

~~(d) **Findings reported to Commission.** At the completion of the investigation, a written report accompanied by findings, if any, may be submitted to the Commission. Following receipt of the report, the Commission shall determine whether or not the apparent evidence warrants lodging formal charges and ordering a formal hearing, and if a formal hearing is ordered all parties shall then be furnished with copies of a written report accompanied by findings, if any.~~

(d) **Investigation and/or investigative session.** Subsequent to the fifteen (15) day response period, the Commission may continue to investigate the complaint to ascertain whether or not charges should be lodged and a formal hearing ordered. Such investigation shall be under the supervision of the Secretary-Treasurer of the Commission. He or she may designate an attorney who will act as a prosecutor for the Commission to examine all results of the investigation. The prosecutor so designated may, in the name of the Commission, subpoena witnesses, take testimony by deposition and compel the production of records and documents bearing upon the complaint.
(e) **Findings reported to Commission.** At the completion of the investigation, a written report accompanied by findings, if any, may be submitted to the Commission. Following receipt of the report, the Commission shall determine whether or not the apparent evidence warrants lodging formal charges against the respondent and ordering a formal hearing. If a formal hearing is ordered all parties shall then be furnished with copies of a written report accompanied by findings, if any.

605:10-17-3. Complaint hearings; notice and procedures [AMENDED]
(a) **Summary suspension.** If the Commission finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action within thirty (30) days. The summary suspension shall remain in effect until further order by the Commission.
(b) **Formal hearing ordered; notification.** Except as provided in (a) of this section, the Commission may issue a disciplinary order only after entering into a consent order with respondent(s) or after a formal hearing of which the respondent(s) shall be given at least fifteen (15) days written notice. ~~specifying the offenses of which the licensee or unlicensed person pursuant to the Code is charged. Such notice may be served as provided by lawfor service of notices, or by mailing a copy by certified mail to the last known address. If the licensee is an associate associated with a broker, the Commission in like manner shall notify the broker with whom associated.~~ Such written notice to a respondent shall specify the offenses with which the respondent is charged and shall be served in accordance with the procedure outlined in this subchapter, including service on respondent's associated broker, if applicable.
~~(c) **Formal hearing location.**The hearing on such charges shall be set at such time and place as the Commission through its Secretary-Treasurer may prescribe and the notice in (b) of this section shall specify this time and place.~~
(c) **Formal hearing location.** Formal hearings shall be set at such time and place as the Commission, through its Secretary-Treasurer, may prescribe and the notice to respondents outlined in (b) of this section shall specify this time and place for the formal hearing. At the sole discretion of the Commission or the Hearing Examiner, formal hearings may be held virtually. The Secretary-Treasurer may for sufficient cause schedule a formal hearing to be held virtually upon proper motion or request having been filed with the Commission office at least seven (7) days prior to the formal hearing. Any request for a hearing to be held virtually must be filed with the Commission office by mailing and/or emailing such request to the Secretary-Treasurer. If the request is submitted by email, you must include the case number, the name of the party your request is submitted on behalf of, and "Request for Formal Hearing to be Virtually" in the subject line.
(d) **Formal hearing before Commission; hearing examiner or selected panel.** The Secretary-Treasurer shall schedule each formal disciplinary hearing before a Hearing Examiner, a selected panel of the Commission, or the Commission as a whole. In the case of a formal hearing conducted by the Commission as a whole or a panel of the Commission, the Chairman or his/her designee shall preside. Designated counsel shall advise the Chair as to rulings upon the questions of admissibility of evidence, competence of witnesses, and any other question of law where such ruling is required or requested.
~~(e) **Request for postponement.** Once a hearing has been scheduled, the Secretary-Treasurer may for sufficient cause postpone or reschedule a hearing upon proper motion or request having been filed with the Commission office seventy-two (72) hours prior to the hearing.~~
~~(1) Each postponement request must be in writing and must state the specific reason(s) for the request.~~
~~(2) The Commission may require official documentation supporting such request.~~
~~(3) An emergency postponement request shall be considered at the time of the emergency.~~
~~(4) The granting of a continuance whether general or emergency, shall not be interpreted to deny the Commission the power to impose summary suspension if the Commission finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its Order, summary suspension of a license may be ordered pending proceedings for revocation or other action within thirty (30) days.~~
(e) **Request for postponement.** Once a formal hearing has been scheduled, the Secretary-Treasurer may for sufficient cause postpone or reschedule a formal hearing upon proper motion or request having been filed with the Commission office seven (7) days prior to the formal hearing.
(1) Each postponement request must be in writing and must state the specific reason(s) for the request.

(2) Each postponement request must be filed with the Commission office by mailing and/or emailing such request to the Secretary-Treasurer. If the request is submitted by email, you must include the case number, the name of the party your request is submitted on behalf of, and "Request for Postponement" in the subject line.
(3) The Commission may require official documentation supporting such postponement request.
(4) An emergency postponement request shall be considered at the time of the emergency, but it is within the Commission's discretion to accept or deny an emergency postponement request.
(5) The granting of a continuance whether general or emergency, shall not be interpreted to deny the Commission the power to impose summary suspension if the Commission finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its Order, summary suspension of a license may be ordered pending proceedings for revocation or other action within thirty (30) days.

~~(f) **Hearings public; witnesses may be excluded.** All hearings shall be public except that upon motion of either party, witnesses may be excluded from the hearing room when such witness is not testifying.~~

(f) **Prehearing procedures.** Prior to the formal hearing, the parties can agree to, or the person designated by the Commission to preside over the formal hearing, can order submission of stipulated facts and identification of witnesses and exhibits as necessary. The person designated by the Commission to preside over the formal hearing may schedule or the parties may request a prehearing conference. Attendance at the conference by the prosecuting attorney and respondent or respondent's attorney is mandatory. The subjects and objectives of prehearing conferences shall be similar to those for pretrial proceedings in the district courts.

~~(g) **Court reporter.** A court reporter shall be present to record the proceedings on behalf of the Commission. Any person desiring a copy of the transcript of the proceedings, may purchase such from the reporter.~~

(g) **Hearings public; witnesses may be excluded.** All formal hearings shall be open to the public except that upon motion of either party, witnesses may be excluded from the hearing room when such witness is not testifying.

~~(h) **Formal hearing procedures.** The designated attorney for the State shall present the State's case. The respondent may present his or her own evidence or may present such through his or her own counsel. If the charges against the respondent resulted from a complaint filed by a party present at the hearing, the complaining party may be a witness for the State. In order that the hearing will not be encumbered by evidence having no bearing on the issues, testimony by all witnesses will be limited to matters relevant to the issues involved. The order of procedure shall be as follows:~~

~~(1) Recitation of the statement of charges by the person presiding.~~
~~(2) Opening statement by the State.~~
~~(3) Opening statement by the respondent.~~
~~(4) Presentation of the State's case followed by cross-examination.~~
~~(5) Respondent's presentation followed by cross-examination.~~
~~(6) Closing arguments by the State.~~
~~(7) Closing arguments by the respondent.~~
~~(8) The Hearing Examiner or hearing panel may ask the parties questions consistent with general trial practices under the Administrative Procedures Act.~~

(h) **Court reporter.** A court reporter shall be present to record the formal hearing on behalf of the Commission. Any person desiring a copy of the transcript of the proceedings, may purchase such from the reporter.

~~(i) **Order; hearing before Commission.** If the case be heard by the Commission as a whole, the Commission shall deliberate and render a decision with confirmation of such decision in writing in the form of an Order distributed to all parties by mail.~~

(i) **Formal hearing procedures.** The designated attorney for the State shall present the State's case. The respondent may present his or her own evidence or may present such through his or her own counsel. If the charges against the respondent resulted from a complaint filed by a party present at the hearing, the complaining party may be a witness for the State. In order that the hearing will not be encumbered by evidence having no bearing on the issues, testimony by all witnesses will be limited to matters relevant to the issues involved.
The order of procedure shall be as follows:

(1) Recitation of the statement of charges by the person presiding.
(2) Recitation of stipulated facts between the parties, if any, by the person presiding.
(3) Opening statement by the State.
(4) Opening statement by the respondent.
(5) Presentation of the State's case followed by cross-examination.
(6) Respondent's presentation followed by cross-examination.
(7) Closing arguments by the State.
(8) Closing arguments by the respondent.

(9) The person presiding may ask the parties questions consistent with general trial practices under the Administrative Procedures Act.

~~(j) **Proposed order consideration; hearing before hearing examiner or panel.** In the case of a hearing conducted by a panel of the Commission or by a Hearing Examiner, following the hearing, the Hearing Examiner or attorney sitting as counsel to the panel shall prepare a proposed Order to be considered by members of the Real Estate Commission at a future meeting.~~

(j) **Duty of disclosure.** It is the duty and obligation of every licensee to make full disclosure at any formal hearing of any knowledge of a violation of any law or of the rules and regulations of the Commission. No person may refuse to testify at any formal hearing on any relevant matter, except in the proper exercise of a legal privilege, nor shall any person testify falsely.

~~(k) **Proposed order notification; written exceptions.** All respondents will be furnished copies of the proposed Order and notified as to the date the proposal will be considered by the Commission for adoption. At the same time, notice will also be given to the parties that written exceptions or requests to present oral exceptions or arguments, if any, should be submitted on or before a designated date pursuant to Section 311, of Title 75, Oklahoma Statutes. Upon adoption of the Order by the Commission as a whole, the adopted Order shall be distributed to all parties.~~

(k) **Failure to appear.** Any respondent who fails to appear as directed, after first having received proper notice, shall be deemed by the Commission to have waived his or her right to present a defense to the charges alleged in the complaint, and the Commission may deem the allegations of the complaint to be true and correct as alleged. Thereupon, the Commission may vote to take disciplinary action upon the allegations of the complaint if it appears, after having reviewed the evidence, that disciplinary action is warranted.

(l) **Supervising Broker Attendance.** The supervising broker shall be required to attend all formal hearings wherein their real estate associate or company is the subject of a complaint unless the Secretary-Treasurer provides written notice that attendance is not required. Failure to attend may result in disciplinary action against the supervising broker.

~~(l) **Actual notification pertaining to this Section.** For purposes of this Section, notice shall be deemed to have been given at the time that notice is deposited in the United States mail with proper postage thereon and mailed to the last known address of the notified person, or date when such notice is served in person by a person duly authorized as a representative of the Commission.~~

(m) **Order; hearing before Commission.** If the case is heard by the Commission as a whole, the Commission shall deliberate and render a decision with confirmation of such decision in writing in the form of an Order distributed to all parties by mail.

~~(m) **Violation found.** If the Commission shall determine that any licensee or unlicensed person pursuant to the Code is guilty of violation of the "Code," such person may be disciplined in the manner as prescribed in such "Code."~~

(n) **Proposed order consideration; hearing before hearing examiner or panel.** In the case of a hearing conducted by a panel of the Commission or by a Hearing Examiner, following the hearing, the Hearing Examiner or attorney sitting as counsel to the panel shall prepare a proposed Order to be considered by members of the Commission at a future meeting.

(o) **Proposed order notification; written exceptions.** All respondents will be furnished copies of the proposed Order and notified as to the date the proposal will be considered by the Commission for adoption. At the same time, notice will also be given to the parties that written exceptions or requests to present oral exceptions or arguments, if any, should be submitted on or before a designated date pursuant to Section 311, of Title 75, Oklahoma Statutes. Upon adoption of the Order by the Commission as a whole, the adopted Order shall be distributed to all parties.

(p) **Actual notification pertaining to this section.** For purposes of paragraph (n) of this section, notice shall be deemed to have been given at the time that notice is deposited in the United States mail with proper postage thereon and mailed to the last known address of the notified person, or date when such notice is served in person by a person duly authorized as a representative of the Commission.

(q) **Violation found.** If the Commission shall determine that any respondent is guilty of violation of the Code, such person may be disciplined in the manner as prescribed in such Code.

605:10-17-4. Prohibited dealings [AMENDED]

Within the meaning of subsection 8 of Section 858-312 of the "Code," untrustworthy, improper, fraudulent or dishonest dealing shall include, but not be limited to, the following:

(1) The making of a brokerage service contract without a date of termination.

(2) Purchasing of property by a licensee for himself or herself or another entity in which the licensee has an interest as defined in 605:10-15-1 (c), if such property is listed with the broker or the broker's firm, without first making full written disclosure thereof and obtaining the approval of the owner, or the failure by the licensee to exert the licensee's best effort in order to later purchase or acquire the property for themself or another entity in which they have an interest as defined in 605:10-15-1 (c).

(3) Purchasing of property by a licensee for himself or herself or another entity in which the licensee has an interest as defined in 605:10-15-1(c) without first making a full written disclosure to all parties involved in the transaction.
(4) Repeated misrepresentations, even though not fraudulent, which occur as a result of the failure by the licensee to inform himself or herself of pertinent facts concerning property, as to which he or she is performing services.
(5) Procuring the signature(s) and dates of such signature(s) to a purchase offer or contract or to any lease or lease proposal which has no definite maximum purchase price or lease rental, or no method of payment, termination date, possession date or property description.
(6) The payment of any fees or amounts due the Commission with a check that is dishonored upon presentation to the bank on which the check is drawn.
(7) Lending a broker's license to an associate; permitting an associate to operate as a broker; or failure of a broker to properly supervise the activities of an associate. A broker permitting the use of the broker's license to enable an associate licensed with the broker to, in fact, establish and conduct a brokerage business wherein the broker's only interest is the receipt of a fee for the use of the broker's sponsorship.
(8) Failure to make known in writing to any purchaser any interest the licensee has in the property they are selling.
(9) Failure of the licensee to inform the buyer and seller in writing at the time the offer is presented that the buyer and seller will be expected to pay certain closing costs, brokerage service costs, and approximate amount of said costs.
(10) Failure, upon demand in writing, to respond to a complaint in writing, or to disclose any information within licensee's knowledge, or to produce any document, book or record in licensee's possession or under licensee's control that is real estate related and under the jurisdiction of the Real Estate Commission, for inspection to a member of the Commission staff or any other lawful representative of the Commission.
(11) Failure to reduce an offer to writing, when a proposed purchaser requests such offer to be submitted.
(12) Failure to submit all bona fide offers to an owner when such offers are received prior to the seller accepting an offer in writing.
(13) Any conduct in a real estate transaction which demonstrates bad faith or incompetency.
(14) Failure to act, in marketing the licensee's own property, with the same good faith as when acting in the capacity of a real estate licensee.
(15) An associate who does not possess the license of a broker or branch ~~office~~ broker as defined in the rules, but is intentionally acting in the capacity of a broker or branch ~~office~~ broker.
(16) Discouraging a party from obtaining an inspection on a property.
(17) Allowing access to, or control of, real property without the owner's authorization.
(18) Knowingly providing false or misleading information to the Commission during the course of an investigation.
(19) Interfering with an investigation by means of persuading, intimidating or threatening any party or witness, or tampering with or withholding evidence relating to the investigation.
(20) Knowingly cooperating with an unlicensed person or entity to perform licensed real estate activities as required by Title 59 O.S. Section 858-301.
(21) Failing to disclose in writing any known immediate family relationship to a party to the transaction for which the broker is providing brokerage services.
(22) Failure by a broker to ensure all persons performing real estate licensed activities under the broker are properly licensed.
(23) An associate shall not perform licensed activities outside their broker's supervision.
(24) Failing to maintain documents relating to a trust account or real estate transaction for the time period as required by Rule 605:10-13-1.

[OAR Docket #24-697; filed 6-27-24]

TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #24-755]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Administrative Components of the Department

612:1-3-10. Final signature authority [AMENDED]

AUTHORITY:

Commission for Rehabilitation Services; 74 O.S. § 166.2

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 2, 2023

COMMENT PERIOD:

December 2, 2023 through February 6, 2024

PUBLIC HEARING:

February 6, 2024

ADOPTION:

February 15, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 17, 2024

LEGISLATIVE APPROVAL:

N/A

LEGISLATIVE DISAPPROVAL:

N/A

APPROVED BY GOVERNORS DECLARATION:

Approved by Governor's declaration on June 21, 2024

FINAL ADOPTION:

June 21, 2024

EFFECTIVE:

August 11, 2024

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:

N/A

GUBERNATORIAL APPROVAL:

N/A

REGISTER PUBLICATION:

N/A

DOCKET NUMBER:

N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:

N/A

INCORPORATING RULES:

N/A

AVAILABILITY:

N/A

GIST/ANALYSIS:

Revisions in this Chapter consists with updating contract dollar amounts for Division Administrators, CDS Administrator, Field Coordinators, and School Superintendents. Added language to delegate approval for sole source contracts. Updated job titles to be consistent with current terminology.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. ADMINISTRATIVE COMPONENTS OF THE DEPARTMENT

612:1-3-10. Final signature authority [AMENDED]

The Department of Rehabilitation Services recognizes the importance of efficient processing of resource and operations approval requests. At the same time, the Department must assure sufficient oversight of resource allocation in order to fulfill its obligations as a steward of public funds. The Department has therefore established a signature authority listing to delineate final approval levels for resource and operations approval requests. With regard to signature authority on contracts, all expenditures must be consistent with DRS's budget categories as approved by the Commission. Delegation of final signature authority is limited to the next lower administrative level unless approved in writing by the Director. The administrator is to notify the appropriate administrative programs of delegations. Administrators have authority to approve actions within their areas of responsibility at all administrative levels below their own. The requests listed in (1) through (~~8~~9) of this Subsection must continue to be reviewed and approved by the appropriate staff before presentation to the individual with final signature authority. There are additional resource and operations approvals unique to each administrative area that are stated in the policies established for that administrative area.

(1) **Director's signature.** The Director has final signature authority for items listed in (A) through (E) of this Paragraph.

(A) Sole source contracts. (approvals may be delegated to the COS, COO or CFO).

(B) Initial contracts for $250,000 or more.

(C) Notices of personnel action (may be delegated).

(D) Leave without pay requests for 90 days or more.

(E) Other actions as required by executive order, statute, etc.

(2) **Chief of Staff, Chief Operations Officer, and Chief Fiscal Officer.** The Chief of Staff, Chief Operations Officer and Chief Fiscal Officer have ~~has~~ final signature authority for items listed in (A) through (~~D~~F) of this Paragraph.

(A) Initial contracts ~~between $100,000 and~~ up to $250,000 ~~on a case by case basis and upon written authority of the Director~~.

(B) Initial contracts or interagency agreements which obligate the entire Department or more than one division.

(C) New brochures, forms, publications (electronic or printed), and videos produced for more than one division.

(D) ~~Policy Transmittals by the Administrator for Process Improvement~~ Office supply orders.

(E) Administrative memos.

(F) Requests for in-state travel.

(3) **Division Administrator.** Division Administrators have final signature authority for items listed in (A) through (K) of this Paragraph.

(A) Initial contracts ~~for less than $100,000~~ up to $200,000.

(B) New or revised interagency agreements involving the division.

(C) ~~Administrative~~ Computer purchases ~~costing $10,000 or more (may be delegated). Computer purchases~~ must be co-signed by the CDS Administrator ~~for Information Services~~ acting in the IT capacity.

(D) Requests for employee in-state travel (may be delegated).

(E) Requests for out-of-state employee travel.

(F) Final decisions for employee grievance resolution, other than discrimination complaints, and for adverse action after review by Human Resources.

(G) Leave without pay requests for less than 90 days.

(H) Brochures, forms, publications (electronic or printed), and videos produced for the division.

(I) Requests for internships or practicums for respective division.

(J) Memos for general distribution to the division.

(K) Grant proposals.

(4) ~~**Chief Operations Officer**~~ **Central Departmental Services Administrator**.~~Chief Operations Officer~~ CDS Administrator has final signature authority for items listed in (A) through (~~E~~C) ~~of~~ in this Paragraph.

(A) ~~Office supply orders~~ Administrative purchase requisitions under area of responsibility up to $50,000.

(B) ~~Reorder of existing printed materials~~ All Lease agreements.

(C) ~~Administrative purchase requisitions under area of responsibility up to $100,000. Computer purchases must be co-signed by the Administrator for Information Services~~ All IT contracts and agreements up to $200,000.

~~(D) Administrative memos under area of responsibility.~~

~~(E) Requests for employee in-state travel.~~

(5) **Field Coordinators ~~and Program Managers~~ in DVR and DSBVI.** The Field Coordinators ~~or Program Managers~~ in Vocational Rehabilitation Services and Services for the Blind and Visually Impaired have final signature authority for ~~administrative purchases up to $10,000. Computer purchases must be co-signed by the Administrator for Information Services. Program Managers have final signature authority for~~ items listed in (A) through (~~B~~C) of this ~~Paragraph~~ paragraph.

(A) ~~Office supply requisitions other than those available on the electronic ordering system~~ Administrative purchases up to $50,000. Computer purchases must be co-signed by the CDS Administrator acting in an IT capacity.

(B) ~~Reorder of existing printed materials Program Managers have final signature authority for items listed in (A) through (B) of this Paragraph~~ Office supply requisitions and orders.

(C) Reorder of existing printed materials.

(6) **Program Managers in DVR and DSBVI.** Program Managers in Vocational Rehabilitation Services and Division of Services for the Blind and Visually Impaired have final signature authority for items (A) through (C) in this paragraph.

(A) Administrative purchases up to $25,000 for Program Managers. Computer purchases must be co-signed by the CDS Administrator acting in an IT capacity.

(B) Office supply requisitions and orders.

(C) Reorder of existing printed materials.

(~~6~~7) **Superintendents at OSB and OSD.** Superintendents have final signature authority for items listed in (A) through (J) of this Paragraph for the respective school.

(A) Initial contracts ~~for less than $100,000~~ up to $200,000.

(B) Interagency agreements involving only the school.

(C) All administrative and educational purchases. Computer purchases must be co-signed by the CDS Administrator ~~for Information Services~~ acting in an IT capacity.

(D) Requests for all school employee travel.

(E) Final decisions for adverse action after review by Human Resources.

(F) Final decisions for grievance resolutions, other than discrimination complaints.

(G) Leave without pay requests for less than 90 days.

(H) Requests for internships or practicums.

(I) Brochures, forms, publications (electronic or printed), and videos produced for the school.

(J) Grant proposals.

(~~7~~8) **Supervisors at OSB and OSD.** Supervisors at OSB and OSD have final signature authority for items in (A) through (B) of this Paragraph for the respective school.

(A) Office supply orders.

(B) Reorder of existing printed materials.

(~~8~~9) **~~Program Managers~~ Duputy Administrators, Disability Determination Services.**~~Program Managers~~ Deputy Administrators at the Disability Determination Services have final signature authority for the following items in (A) through (B) of this Paragraph.

(A) The ~~Program Manager~~ Deputy Administrator is responsible for budgets, contracts, and purchases approves administrative purchases under ~~$10,000~~ $25,000. Computer purchases must be co-signed by the CDS Administrator ~~for Information Services~~ acting in an IT capacity.

(B) Reorder of existing printed materials.

[OAR Docket #24-755; filed 7-8-24]

TITLE 612. STATE DEPARTMENT OF REHABILITATION SERVICES
CHAPTER 10. VOCATIONAL REHABILITATION AND SERVICES FOR THE BLIND AND VISUALLY IMPAIRED

[OAR Docket #24-756]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions
612:10-1-2. Definitions [AMENDED]
Subchapter 3. Client Participation in Cost of Services
612:10-3-3. Participation of individuals in cost of services based on financial need [AMENDED]
Subchapter 7. Vocational Rehabilitation and Services for the Blind and Visually Impaired
Part 1. SCOPE OF VOCATIONAL REHABILITATION AND SERVICES FOR THE BLIND AND VISUALLY IMPAIRED
612:10-7-1. Overview of Vocational Rehabilitation and Services for the Blind and Visually Impaired [AMENDED]
Part 3. CASE PROCESSING REQUIREMENTS
612:10-7-20. Case recording [AMENDED]
612:10-7-25.1. Ability to serve all eligible individuals; order of selection for services [AMENDED]
Part 5. CASE STATUS AND CLASSIFICATION SYSTEM
612:10-7-50.1. Assessment for determining rehabilitation needs [AMENDED]
612:10-7-55. Job Ready [AMENDED]
612:10-7-56. Employment [AMENDED]
612:10-7-58. Closed Rehabilitated [AMENDED]
Part 9. ACTIONS REQUIRING REVIEW AND APPROVAL
612:10-7-87. Actions requiring supervisor's approval [AMENDED]
Part 14. Community Provider Employment Services [NEW]
612:10-7-134. Competitive integrated employment [NEW]
612:10-7-135. Supplemental Employment Services (SES) [NEW]
612:10-7-136. Job Placement Services [NEW]
612:10-7-137. JOBS Services [NEW]
612:10-7-138. Support Services for Employment (SSE) [NEW]
Part 15. TRAINING
612:10-7-164. Personal and work adjustment training [AMENDED]
Part 17. SUPPORTED EMPLOYMENT SERVICES
612:10-7-179. Overview of Supported Employment Services [AMENDED]
612:10-7-180. Eligibility for the Supported Employment ~~Program~~Services [AMENDED]
612:10-7-182. Competitive ~~employment for supported employment~~ integrated employment for Supported Employment clients [AMENDED]
612:10-7-183. Ongoing support services [AMENDED]
612:10-7-184. Extended services [AMENDED]
612:10-7-185. Provision of supported employment services [AMENDED]
Part 18. EMPLOYMENT AND RETENTION SERVICES
612:10-7-186. Overview of Employment and Retention Services [AMENDED]
612:10-7-187. Eligibility for Employment and Retention Services [AMENDED]
612:10-7-188. Provision of ~~employment and retention services~~Employment and Retention Services [AMENDED]
612:10-7-189. Competitive integrated employment for Employment and Retention [AMENDED]
Part 21. PURCHASE OF EQUIPMENT, OCCUPATIONAL LICENSES AND CERTIFICATIONS
612:10-7-221. Housing Modification [AMENDED]
Part 23. SELF-EMPLOYMENT PROGRAMS AND OTHER SERVICES
612:10-7-230. Self-employment programs [AMENDED]
612:10-7-232. Placement [AMENDED]
Part 25. TRANSITION FROM SCHOOL TO WORK PROGRAM
612:10-7-240. Overview of transition from school to work services [AMENDED]
Subchapter 13. Special Services for the Deaf and Hard of Hearing
Part 3. CERTIFICATION OF INTERPRETERS
612:10-13-16. Evaluation [AMENDED]
612:10-13-18. Fees [AMENDED]
612:10-13-19. Refunds [AMENDED]
612:10-13-20. Certification maintenance [AMENDED]
612:10-13-24. Interpreter certification program advisory committee and interpreter quality committee [AMENDED]

AUTHORITY:

Commission for Rehabilitation Services; 74 O.S. § 166.2

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

December 2, 2023
COMMENT PERIOD:
December 2, 2023 through February 6, 2024
PUBLIC HEARING:
February 6, 2024
ADOPTION:
February 15, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 17, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The majority of revisions in this Chapter consists with updating language to be consistent with contract terminology and federal regulations. Additional revisions to Chapter 10 consist of updating definitions, removing antiquated language, and adding new Part 14. Community Provider Employment Services, new rules: 612:10-7-134 Competitive integrated employment, 612:10-7-136 Job Placement Services, 612:10-7-137 Job Services, 612:10-7-138 Support Services for Employment (SSE).
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

612:10-1-2. Definitions [AMENDED]

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

"Act" means the Rehabilitation Act [29 USC 701 et seq.].

"ADL" Activities of Daily Living often refer to the routine activities carried out for personal hygiene and health (including bathing, dressing, feeding) and for operation of a household.

"Applicant" means an individual who has completed and signed an agency application form or has otherwise requested vocational rehabilitation services; who has provided information necessary to initiate an assessment to determine eligibility and priority for services; and who is available to complete the assessment process.

"Appropriate modes of communication" means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed captioned videos, specialized telecommunications services and audio recordings, Brailed and large print materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.

"Assessment for determining eligibility and vocational rehabilitation needs" means, as appropriate in each case a review of existing data to determine if an individual is eligible for vocational rehabilitation services; and to assign priority for an order of selection described in 34 CFR 361.36 in the States that use an order of selection; and to the extent necessary, the provision of appropriate assessment activities to obtain necessary additional data to make the eligibility determination and assignment.

"Assistive technology" means technology designed to be utilized in an assistive technology device or service.

"Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"Assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device.

"Best correction" refers to the use of standard eyeglasses or contact lenses and does not include the use of bioptic telescopic systems or specialized lenses which cannot be worn by the individual on a sustained basis.

"Blind" means persons who are blind within the meaning of the State Law relating to Vocational Rehabilitation. Legal blindness means a visual acuity of 20/200 or less in the better eye with best correction, or a visual field of 20 degrees or less.

"Client" means an individual found eligible and receiving services under the Act.

"Community rehabilitation program" (CRP) means a program that directly provides or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and provides singly or in combination, services for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement.

"Comparable services and benefits" means services that are provided or paid for in whole or in part by other Federal, state or local public agencies, health insurance or employee benefits, and are available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's individualized plan for employment in accordance with 34 CFR 361.53, and commensurate to the services that the individual would otherwise receive from the designated State vocational rehabilitation agency. For the purposes of this definition, comparable services and benefits do not include awards and scholarships based on merit.

"Compensatory training" means training required before the client can enter a formal training program or employment, such as pre-vocational or personal adjustment training.

"Competitive integrated employment" means full or part-time work that is compensated at or above minimum wage, offers an individual with a disability benefits and opportunities for advancement comparable to those offered to employees in similar positions, and is performed in a setting where the individual with a disability interacts with persons without disabilities to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons. Specific criteria defining competitive integrated employment are detailed in 34 CFR 361.5(c)(9)."

"Consumer Independence Support Services" (CISS) are defined as providing independent living assessment, intensive counseling, community integration, and housing modifications to further assist individuals with severe disabilities in achieving independence.

"Continuity of Services" means once an individual is selected for services in accordance with administrative rules, regardless of the priority category from which the individual was selected, the individual will receive the necessary purchased services, including post-employment services.

"Counselor" means the qualified vocational rehabilitation professional, who is an employee of the designated state unit, and who has primary responsibility for the management of an individual's rehabilitation services record of service, including determination of eligibility, service planning and management, counseling and guidance, and determination of successful or unsuccessful rehabilitation. Counselor is equivalent to such terms as VR/SBVI Specialist and VR/SBVI Coordinator.

"Credential attainment" means the percentage of those clients enrolled in an education or training program (excluding those in OJT and customized training) who attained a recognized postsecondary credential or a secondary school diploma, or its recognized equivalent, during participation in or within one year after exit from the program. Under the WIOA, workforce agencies are required to report this percentage during participation in or within one year after closure of the case. This is based on the sub-regulatory guidance related to the implementation and operation of the performance accountability system under section 116 of WIOA and the implementing regulations in 34 CFR parts 361 subpart E.

"Customized employment" means competitive integrated employment, for an individual with a significant disability, that is based on an individualized determination of the unique strengths, needs and interests of the individual; designed to meet the specific abilities of the individual and the business needs of the employer; and carried out using flexible strategies such as those detailed in 34 CFR 361.5(c) (11).

"Department" unless otherwise indicated in the text, means the Department of Rehabilitation Services as constituted in 74 O.S., Section 166.1 et seq.

"Designated State Unit" or **"State Unit"** means either the State vocational rehabilitation bureau, division, or other organizational unit that is primarily concerned with vocational rehabiltation or vocational and other rehabilitation of individuals with disabilities and that is responsible for the administration of the vocational rehabilitation program of the State agency, as required under 361.13(b); or the State agency that is primarily concerned with the vocational rehabilitation or vocational and other rehabilitation of individauls with disabilities. (Authority: Sections 7(8)(B) and 101(a)(2)(B) of the Rehabilitation Act of 1973, as amended; 29 U.S.C. 705(20)(A) and 722(a)(1))

"DRS" means the Department of Rehabilitation Services.

"DSBVI" means the Division of Services for the Blind and Visually Impaired.

"DVR" means the Division of Vocational Rehabilitation.

"Electronic Case Management System" means a "system of records" which is a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

"Eligible individual" means an applicant for vocational rehabilitation services who meets the eligibility requirements of 34 CFR 361.42(a).

"Employment and Retention" or **"(E&R)"** means short-term ~~job coach~~ on-site and/or off-site support for individuals with ~~severe~~ significant disabilities who require assistance preparing for, obtaining, and maintaining employment. If Employment and Retention Services are used with an individual with a most significant disability, the DRS Counselor must justify in a case narrative how Employment and Retention is the most appropriate placement service rather than Supported Employment.

"Employment Consultant" or **"(EC)"** refers to a specialist who uses structured intervention techniques to help the individual learn job tasks to the employer's specifications and learn the interpersonal skills necessary to be accepted as an employee at the job site. In addition to job site training, job coaching includes related assessment, job development, advocacy, travel training, and other services needed to maintain employment.

"Employment outcome" means, with respect to an eligible individual, entering, advancing in, or retaining full-time or part-time competitive integrated employment as defined in 34 CFR §361.5(c) (9) (including customized employment, self-employment, telecommuting, or business ownership), or supported employment as defined in 34 CFR §361.5(c) (53), that is consistent with an individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. (Note: As specified in federal rule, a designated State unit may continue services to individuals with uncompensated employment goals on their approved individualized plans for employment prior to the effective date of the final federal regulations until June 30, 2017, unless a longer period of time is required based on the needs of the individual with the disability, as documented in the individual's service record.)

"Extended employment" means work in a non-integrated or sheltered setting for a public or private nonprofit agency or organization that provides compensation in accordance with the Fair Labor Standards Act.

"Extended period of time" means, with respect to duration of vocational rehabilitation, services that are expected to extend at least 6 months from eligibility.

"Extended services" means ongoing support services provided to individuals with the most significant disabilities, including youth with the most significant disabilities, after the time-limited vocational rehabilitation services have been completed and job stabilization has been achieved. They consist of specific services, including natural supports, needed to maintain the supported employment placement. Extended services are paid from funding sources other than DRS and are specifically identified in the IPE, except that DRS may provide and pay for extended services for youth with the most significant disabilities for a period not to exceed 4 years or extend beyond the date when the youth reaches age 25.

"Extreme medical risk" means a risk of substantially increasing functional impairment or risk of death if medical services including mental health services, are not provided expeditiously.

"Family member" means for purposes of receiving vocational rehabilitation services in accordance with 34 CFR 361.48(b)(9), means an individual who either is a relative or guardian of an applicant or eligible individual; or lives in the same household as an applicant or eligible individual; who has a substantial interest in the well-being of that individual; and whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

"Functional capacities" means a client's assets, strengths, and resources which maintain or increase the individual's ability to work. Functional capacities include mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills.

"Functional limitations" means physical or mental conditions, emergent from a disability, which impair, interfere with, or impede one or more of an individual's functional capacities.

"Higher education" means universities, colleges, community/junior colleges, vocational schools, technical institutes, or hospital schools of nursing.

"Highly challenged" describes ~~a client~~ an individual receiving supported employment services who, due to the nature of the disability, requires a greater level of support from the job coach to ~~achieve and~~ maintain employment. The individual must meet at least two (2) or more of the following criteria to be considered highly challenged:

(A) Requires a personal care attendant at the job site.

(B) Has exhibited an ongoing, documented pattern of explosive behavior, physical aggression, self-abuse, or destruction of property which would jeopardize their opportunity for achieving a successful employment outcome.

(C) During the last two (2) years has experienced three (3) or more events (e.g., hospitalization, recurring health, or mental health issues), or a total of twelve (12) weeks incarceration or other institutionalization, which interrupted work or ability to live independently.

(D) Documentation (e.g., client statement, DRS Counselor confirmation, etc.) of rejection of the individual by other Contractors (e.g., employment, educational etc.) as being too difficult to serve.

(E) Is a member of the Hissom class.

(F) Meets eligibility criteria for the Program of Assertive Community Treatment (PACT) program.

(G) Alcohol and/or substance abuse is a secondary disability which has resulted in loss of employment within the last two (2) years.

(H) The individual's primary or secondary disability is Borderline Personality, Autism, Deaf-Blindness, Intellectual Disability, or Traumatic Brain Injury.

(I) Has had three (3) or more required changes of anti-psychotic medications in the past year.

(J) Requires specialized assistive technology such as sensory aids, telecommunication devices, adaptive equipment, and/or augmentative communication devices to succeed in Employment.

(K) Other - Contractor must provide documentation to assigned ESS TA to support an additional employment limiting factor not listed above that would likely increase service costs and difficulty to serve.

"IEP" means Individualized Education Program as required by the Individuals with Disabilities Education Act.

"Individual with a disability" means an individual who has a physical or mental impairment; whose impairment constitutes or results in a substantial impediment to employment; and who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services.

"Individual with a severe disability" means with respect to eligibility for the state's Optional Program for Hiring Applicants with Disabilities, an individual who has a physical or mental impairment which seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome.

"Individual with a significant disability" means an individual with a disability:

(A) who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(B) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(C) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, intellectual disability, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including

stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease or other disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

"Individual with the most significant disability" means an individual with a significant disability who meets the designated State unit's criteria for an individual with a most significant disability. These criteria must be consistent with the requirements in 34 CFR 361.36(d)(1) and (2):

(A) who has a severe physical or mental impairment that seriously limits three or more functional capacities in terms of an employment outcome;

(B) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(C) who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental illness, intellectual disability, multiple sclerosis, muscular dystrophy, musculoskeletal disorder, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability, end-stage renal disease or other disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

"Individual's representative" means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in which case the court-appointed representative is the individual's representative.

"Integrated setting" means:

(A) With respect to the provision of services, a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals other than non-disabled individuals who are providing services to those applicants or eligible individuals.

(B) With respect to an employment outcome, means a setting typically found in the community where the employee with a disability interacts, for the purpose of performing the duties of the position, with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (e.g., customers and vendors) who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons.

"Intercurrent (acute) conditions" means an illness or injury occurring during the actual course of an individual's rehabilitation which, if not cared for, will complicate or delay achievement of the client's employment outcome as identified in the client's IPE.

"IPE" means the Individualized Plan for Employment.

"Job Club" is a structured learning experience for a client to build skills in self-assessment, resume development, job search and research strategies, and interview techniques to assist the person to enter a career of their choice.

"Job Coach~~/Employment Training Specialist~~" means a qualified individual providing support services to eligible individuals in ~~supported~~ employment ~~and employment and retention~~ programs. Services directly support the eligible individual's work activity including ~~marketing and job development,~~ applied behavioral analysis, ~~job and work site assessment,~~ training and worker assessment, ~~job matching procedures,~~ and teaching job skills.

"Long-term treatment" means medical or psychological treatment that is expected to last more than three months.

"Maintenance" means monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment.

"Measurable Skill Gains" or **"(MSG)"** means a measure of the documented progress (academic, technical, occupational, or other) that a client makes in a training or education program toward obtaining a recognized postsecondary credential. This progress is reported throughout the life of the case. Examples of a valid skill gain would be the documented completion of a high school semester or a minimum of 12 college hours successfully completed over a one year period.

"Milestones" means a payment system that reimburses a vendor based on incentives and outcomes. The vendor is paid when the client completes pre-defined checkpoints on the way to a desired employment goal.

"Multiple services" means the counseling and guidance provided as a routine part of case management plus two or more VR services. Comparable benefits and/or services can count toward meeting the definition of multiple services. Services routinely provided as a package do not count as multiple services for the purpose of determining the presence of a significant disability, even if two or more services are included in the package.

"Natural supports" means any assistance, relationships or interactions that allow a person to maintain employment in ways that correspond to the typical work routines and social interactions of other employees. Natural supports may be developed through relationships with people or put into place by the adaptation of the work environment itself, depending on the support needs of the person and the environment.

"Occupational license" means any license, permit, or other written authority required by a state, city or other governmental unit to be obtained in order to enter an occupation.

"OMES-DCAM" means Office of Management & Enterprise Services-Division of Capital Assets Management, which sets thresholds for State Purchasing guidelines.

"Ongoing support services" means ~~services specified in the IPE according to individual need, which support and maintain an individual with the most significant disabilities in supported employment. Sponsored ongoing support services are provided from the time of placement until the individual is stabilized on the job. Ongoing support services are provided by one or more extended services providers, or by natural supports, following transition throughout the individual's term of employment.~~ as used in the definition of supported employment, services that:

(A) Are needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment;

(B) Are identified based on a determination by the DRS of the individual's need as specified in an individualized plan for employment;

(C) Are furnished by the DRS from the time of job placement until transition to extended services, unless post-employment services are provided following transition, and thereafter by one or more extended services providers throughout the individual's term of employment in a particular job placement;

(D) Include an assessment of employment stability and provision of specific services or the coordination of services at or away from the worksite that are needed to maintain stability based on:

(i) A minimum of twice-monthly monitoring at the worksite of each individual in supported employment; or

(ii) If under specific circumstances, at the request of the individual, the individualized plan for emploment provides for off-site monitoring, twice monthly meetings with the individual;

(E) Consist of:

(i) Any particularized assessment supplementary to the comprehensive assessment of rehabilitation needs described at 34 C.F.R., section 361.5(c)(5)(ii);

(ii) The provision of skilled job trainers who accompany the individual for intensive job skill training at the worksite;

(iii) Job development and training;

(iv) Social skills training;

(v) Regular observation or supervision of the individual;

(vi) Follow-up services including regular contact with the employers, the individuals, the parents, family members, guardians, advocates or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

(vii) Facilitation of natural supports at the worksite;

(viii) Any other service identified in the scope of vocational rehabilitation services for individuals, described in section 361.48(b); or

(ix) Any service similiar to the foregoing services.

"Other Qualified Rehabilitation Personnel" means qualified rehabilitation personnel who, in addition to rehabilitation counselors, are necessary to facilitate the accomplishment of the employment outcomes and objectives of an individual (Section 100(a)(3)(E) of the Act.) Other qualified rehabilitation personnel include, but are not limited to, rehabilitation teachers of the blind who are certified at the national level.

"Package of services" means several services which are usually provided together for the same purpose. The services in a package are usually, but not always, from the same category of services (see definition of multiple services, this section). Examples include, but are not limited to: surgery, anesthesia, and hospitalization; or personal computer, software, and peripheral equipment.

"Personal assistance services" means a range of services including, among other things, training in managing, supervising, and directing personal assistance services, provided by one or more persons, that are designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform without assistance if the individual did not have a disability. The services are also designed to increase the individual's control in life and ability to perform everyday activities on or off the job; necessary to the achievement of an employment outcome; and provided only while the individual is receiving other vocational rehabilitation services.

"Physical and mental restoration services" means corrective surgery or therapeutic treatment that is likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment.

"Physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder such as intellectual disability organic brain syndrome, emotional or mental illness, and specific learning disabilities.

"Post-employment services" means Post-employment services defined in 34 C.F.R., section 361.5(c)(41) as one or more of the VR services identified in 34 CFR 361.48(b) that are provided subsequent to the achievement of an employment outcome and prior to case closure that are necessary for an individual to maintain, regain, or advance in employment, consistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice. As described in the note following the regulatory definition of "post-employment services" at 34 C.F.R., section 361.5(c)(41), post-employment services are:

(A) Provided under an amended individualized plan for employment (IPE); thus, a re- determination of eligibility is not required;

(B) Limited in scope and duration; and

(C) Available to meet rehabilitation needs that do not require a complex and comprehensive provision of services.

(D) Thus, after the employment outcome has been achieved but before the individual is reported as having exited the VR program is the period of time that the individual is most likely to need discrete short-term services (i.e., post-employment services) to ensure that the employment outcome can be maintained.

"Pre-employment transition services" means the required activities and authorized activities specified in 34 CFR 361.48(a)(2) and (3).

"Prior approval" refers to the receipt of approval from the granting authority prior to issuing the authorization for the purchase of goods and services.

"Record of Service" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, the individual's education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual.

"Rehabilitation Act" means the Rehabilitation Act [29 USC 701 et seq.].

"Rehabilitation engineering" means the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community.

"Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"SBVI" means the Division of Services for the Blind and Visually Impaired, depending upon the context.

"Section 504 Plan" is a plan designed as a protection for students with disabilities who may not be considered eligible for special education under IDEA in compliance with Section 504 of the Rehabilitation Act of 1973 as amended.

"Situational Assessment" means to determine the best match between an individual, a type of job, and a work environment. Situational assessment (also known as job sampling, on-the-job assessment, or environmental assessment), is assessment using actual employment and community settings.

"Small business enterprises" means a small business operated by blind or other individuals with severe disabilities under the management and supervision of the state DRS. Such businesses include only those selling, manufacturing, processing, servicing, agricultural, and other activities which are suitable and practical for the effective utilization of the skills and aptitudes of individuals who are blind or individuals who have severe disabilities. Small

business enterprise provides substantial gainful employment or self-employment commensurate with the time devoted by the operators to the business, the cost of establishing the business and other factors of an economic nature.

"Sole local agency" means a unit or combination of units of general local government or one or more Indian tribes that has the sole responsibility under an agreement with, and the supervision of, the State agency to conduct a local or tribal vocational rehabilitation program, in accordance with the vocational rehabilitation services portion of the Unified or Combined State Plan.

"Stabilization" means the time period when EC support is reduced to the long-term maintenance level where the individual retains employment, and personal satisfaction with the job, as well as employer satisfaction with the individual's job performance.

"Student with a disability" means, in general, an individual with a disability in a secondary, postsecondary, or other recognized education program who meets the requirements set forth in 34 CFR 361.5(c)(51).

"Substantial impediment to employment" means that a physical or mental impairment (in the light of attendant medical, psychological, vocational, educational, communication, and other related factors) hinders an individual from preparing for, entering into, engaging in, advancing in, or retaining employment consistent with the individual's abilities and capabilities.

"Supplemental Wage Record" means wage information used to determine both employment status and wages within a reporting period. This information is required when wage information cannot be obtained through other means such as the Oklahoma Employment Security Commission. The requirement to make the effort to obtain this supplemental wage information is necessary to carry out the accountability requirements under Section 116 of the Workforce Innovation and Opportunity Act.

"Support Service Providers" or **"(SSP)"** means a Support Service Provider, commonly referred to as an SSP, is a specially trained individual who provides access to the community for people who are deaf-blind. The SSP is responsible for human guide assistance and facilitation of communication for the deaf-blind person.

"Supported employment" or **"(SE)"** means

(A) competitive integrated employment, including customized employment, or employment in an integrated work settings in which an individual with a most significant disability, including a youth with a most significant disability, is working on a short-term basis toward competitive integrated employment that is individualized, and customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual, including with ongoing support services for individuals with the most significant disabilities who meet the requirements set forth in 34 CFR 361.5(c)(53).

(i) For whom competitive integrated employment has not historically occurred, or for whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and

(ii) Who, because of the nature and severity of their disabilities, need intensive supported employment services and extended services after the transition from support provided by the designated state unit, in order to perform this work.

(B) For purposes of this part, an individual with a most significant disability, whose supported employment in an integrated setting does not satisfy the criteria of competitive integrated employment, as defined in paragraph (c)(9) of this section is considered to be working on a short-term basis toward competitive integrated employment so long as the individual can reasonably anticipate achieving competitive integrated employment-

(i) Within six months of achieving a supported employment outcome; or

(ii) In limited circumstances, within a period not to exceed 12 months from the achievement of the supported employment outcome, if a longer period is necessary based on the needs of the individual, and the individual has demonstrated progress toward competitive earnings based on information contained in the service record.

"Supported employment services" means ongoing support services, including customized employment, and other appropriate services needed to support and maintain an individual with a most significant disability, including a youth with a most significant disability, in supported employment that are:

(A) Organized and made available, singly or in combination, in such a way as to assist an eligible individual to achieve competitive integrated employment;

(B) Based on a determination of the needs of an eligible individual, as specified in an individualized plan for employment;

(C) Provided by the designated State unit for a period of time not to exceed 24 months, unless under special circumstances the eligible individual and the rehabilitation counselor jointly agree to extend the time to achieve the employment outcome identified in the individualized plan for employment; and

"**Team Meeting**" means a meeting between the individual, guardian, EC, DRS Counselor, and all other team members chosen by the individual and/or guardian. The individual, or with the support of a designee identified by the individual, will lead the meeting.

"Transition services" means, for a student or a youth with a disability, a coordinated set of activities designed within an outcome-oriented process that promotes movement from school to post-school activities, including postsecondary education, vocational training, competitive integrated employment, supported employment, continuing and adult education, adult services, independent living, or community participation. Transition services (1) are based upon the individual student's or youth's needs, preferences and interests; (2) include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation; (3) promote or facilitate the achievement of the employment outcome identified in the student's or youth's individualized plan for employment; and (4) include outreach to and engagement of the parents, or, as appropriate, the representative of such a student or youth with a disability.

"Transportation" means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation services, including expenses for training in the use of public transportation vehicles and systems.

"Vocational rehabilitation services", if provided to an individual, means those services listed in 34 CFR 361.48; and if provided for the benefit of groups of individuals, means those services listed in 34 CFR 361.49.

"VR" means the Division of Vocational Rehabilitation, or the more general term vocational rehabilitation services, depending upon the context.

"Youth with a disability" means an individual with a disability who is not younger than 14 years of age; or older than 24 years of age. Youth with disabilities means more than one youth with a disability.

SUBCHAPTER 3. CLIENT PARTICIPATION IN COST OF SERVICES

612:10-3-3. Participation of individuals in cost of services based on financial need [AMENDED]

(a) DRS has chosen to consider the financial need of eligible individuals or individuals who are receiving services through the trial work experiences under 34 CFR 361.42 (e) for purposes of determining the extent of their participation in the costs of vocational rehabilitation services, other than those services identified in paragraph (c) in this section according to the criteria set forth in 34 CFR 361.54 (b) (1-2).

(b) DVR and DSBVI requires the client to participate in the cost of some vocational rehabilitation services if the client and/or client's family income exceeds the established basic living requirement for the applicable family size. Any client whose available family income exceeds the applicable basic living requirements is required to apply the monthly surplus to the cost of services during each 30 day period services are provided.

(c) A basic living requirement has been established for different size family groups. A family member is an individual who is a relative or guardian of an applicant or eligible individual. Basis living requirements are based on 200% of the Federal poverty level adjusted annually for family size. The standard is intended to cover only the necessities of food, shelter, utilities, clothing, transportation, and incidentals to give the counselor some criteria by which to measure the financial need of a client. To qualify as independent from the family group, the client must meet ~~on~~ one of the following criteria:

(1) Beneficiary of Titles II (federal old age, survivors, and disability insurance benefits) or XVI (SSI);

(2) At least 24 years of age and single;

(3) A ward of the court and in custody of DHS;

(4) Married and maintaining a separate household;

(5) Meets the criteria for temporary housing as described (7) of this section or;

(6) The counselor has adequate documentation to verify the client has the financial resources to demonstrate self-sufficiency and that no family contributions are available.

(7) An eligible individual whose disability has resulted in the need to live with family or friend, and as appropriate the individual's spouse and dependent children, will be considered as a separate household regardless of living arrangements.

(A) Verification of family membership should be based upon whatever available information most accurately documents family membership according to the definition given in this administrative rule.

(B) Examples of acceptable verification include the latest Federal income tax return, payroll information, insurance policies, client report, and/or counselor observation.

(d) The client can be provided services not based on financial needs, the following services do not require a determination of financial need status:

(1) services provided to assess eligibility and priority for services (services which would require the individual's participation in cost under an IPE will also require the individual's participation in cost during an evaluation of the individual's ability to benefit from VR services);
(2) counseling and guidance including information and support services to assist an individual in exercising informed choice;
(3) referral and other services to secure needed services from other agencies, including other components of the statewide workforce development system;
(4) on-the-job training, work experience, internships and apprenticeships;
(5) personal or vocational adjustment training;
(6) personal assistance services;
(7) job-related services including job search and placement assistance, job retention services, follow-up services and follow-along services; under 34 CFR 361.48 (b) (12);
(8) compensatory training;
(9) Supported ~~employment~~ Employment (SE), ~~employment~~ Employment and ~~retention~~ Retention (ER); Job Placement (JP), JOBS, Support Services for Employment (SSE), Supplemental Employment Services (SES), and Customized Employment (CE); or
(10) any auxiliary aid or service (e.g., interpreter services, reader services) that an individual with a disability require under Section 504 of the Act or the American with Disabilities Act (42 U.S.C. 12101, et seq.) or regulations implementing those laws, in order for the individual to participate in the VR program.

(e) Any client who does not have a surplus is not required to participate in the cost of services. Financial need does not exempt the client from required use of comparable benefits. If a payment is required of the client, it will be made to the vendor.
(f) The counselor will re-evaluate the client's financial situation at least annually and any time there is a change in the financial situation of the client or household. The amount of client participation in cost is based upon the most recent determination of client's financial needs at the time the IPE or amendment. If applicable, the extent of the individual's participation in paying for the cost of services is identified on the IPE service (e.g. Household monthly income surplus will be exhausted prior to agency financial contribution).
(g) The client's financial needs must be verified when an IPE includes service which require client participation in costs of services.
(h) Determination of income and liabilities will be verified and documented by the counselor in the record of service when services in the IPE and amendments require client participation in cost. If the individual refuses to provide the requested information, DRS resources will not be used to purchase services which require client participation in cost of the services.

(1) Income.

(A) Income generated from salaried wages will be calculated by gross earnings minus federal taxes, state taxes and social security deductions.
(B) Income generated from business or profession will be calculated by adjusted gross minus additional federal and state taxes divided by 12 to determine a monthly amount.
(C) Income received from unearned sources, such as pensions, public assistance, interest, dividends, royalties, trust fund, or money payments of any kind will be counted. Educational grants, stipends, or loans will not be included in the calculation. If a yearly income is available, it will be divided by 12 to calculate a monthly amount.

(2) Liabilities. When the client is making payments on any areas of liability listed below, payments will be itemized. If payments are not being made on a debt, an expense cannot be shown for this item.

(A) Medical. Out-of-pocket medical payments not covered by insurance, including medication and supplies, can be used as a medical expense. Monthly premiums for health insurance can be included.
(B) Disability related expenses. Disability related expenses beyond the basic living requirements may be considered, if not funded by DRS.
(C) Other. Court order commitments, including child support, can be counted as a liability.
(D) Education expenses. Costs for any family member incurred only for tuition, books, and fees, toward post-secondary educational expenses, not included in the IPE or paid by grants, scholarships, fee waivers, etc., can be counted as a liability. Only the amount of the payments can be counted as a liability.

(i) Case recording requirements. A statement regarding the re-evaluation of financial needs must be included in the record of service. The financial review may be included in the IPE review if they occur at the same time.

SUBCHAPTER 7. VOCATIONAL REHABILITATION AND SERVICES FOR THE BLIND AND VISUALLY IMPAIRED

PART 1. SCOPE OF VOCATIONAL REHABILITATION AND SERVICES FOR THE BLIND AND VISUALLY IMPAIRED

612:10-7-1. Overview of Vocational Rehabilitation and Services for the Blind and Visually Impaired [AMENDED]

(a) Vocational rehabilitation services are provided by the Division of Vocational Rehabilitation and the Division of Services for the Blind and Visually Impaired to help eligible individuals achieve employment outcomes that are consistent with the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of each eligible individual. VR services for individuals are meant to result in competitive employment in an integrated setting. Vocational rehabilitation services include services for individuals and services to groups of individuals.

(b) Vocational rehabilitation services for an individual are prescribed in an Individualized Plan for Employment (IPE) that is based on an assessment of the individual's rehabilitation needs, guidance provided by a qualified vocational rehabilitation professional and the individual's informed choice with regard to employment goal, services and service providers. Services may include but are not limited to:

(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including, if appropriate, an assessment by personnel skilled in rehabilitation technology;

(2) counseling and guidance, including information and support services to assist an individual in exercising informed choice;

(3) referral and other services to secure needed services from other agencies through cooperative agreements if such services are not available from DVR or DSBVI;

(4) job-related services, including job search and placement assistance, customized employment services, services leading to self-employment, job retention services, ongoing services, supplemental employment services, support services for employment, and extended services;

(5) vocational and other training services, including the provision of personal and vocational adjustment services, books, tools, and other training materials;

(6) to the extent that financial support is not readily available from a source (such as health insurance or comparable services and benefits) other than DVR or DSBVI, diagnosis and treatment of physical and mental impairments;

(7) maintenance for additional costs incurred while participating in an assessment for determining eligibility and vocational rehabilitation needs or while receiving services under an Individualized Plan for Employment;

(8) transportation, including training in the use of public transportation vehicles and systems, that is provided in connection with the provision of any other service described in this section and needed by the individual to participate in rehabilitation services or to achieve an employment outcome;

(9) on-the-job or other related personal assistance services provided while an individual is receiving other services described in this section;

(10) interpreter services provided by qualified personnel for individuals who are deaf or hard of hearing, and reader services for individuals who are determined to be blind;

(11) rehabilitation teaching services, and orientation and mobility services, for individuals who are blind;

(12) occupational licenses, tools, equipment, and initial stocks and supplies;

(13) technical assistance and other consultation services to conduct market analyses, develop business plans, and otherwise provide resources, to the extent such resources are authorized to be provided through the statewide workforce investment system, to eligible individuals who are pursuing self-employment or telecommuting or establishing a small business operation as an employment outcome;

(14) rehabilitation technology, including rehabilitation engineering, assistive technology devices and assistive technology services;

(15) transition services for students with disabilities, that facilitate the achievement of the employment outcome identified in the Individualized Plan for Employment, and pre-employment transition services as described in 34 CFR 361.48(a) and 29 USC 733;

(16) supported employment services for individuals with the most significant disabilities that need ongoing support services from ~~a~~ an employment consultant and/or job coach to ~~obtain and~~ maintain employment;

(17) employment and retention services for individuals with significant disabilities who require short term support from an employment consultant and/or job coach ~~support~~ to obtain and maintain a successful employment outcome;
(18) transitional employment services for individuals with the most significant disabilities due to mental illness who have little or no successful work history and need work adjustment/trial work experience;
(19) work experiences, internships, and apprenticeships;
(20) services to the family of an individual with a disability necessary to assist the individual to achieve an employment outcome; and
(21) specific post-employment services necessary to assist an individual with a disability to maintain, retain, regain, or advance in employment.

(c) Vocational rehabilitation services for groups of individuals with disabilities are described in 34 CFR 361.49 and include:

(1) In the case of any type of small business operated by individuals with significant disabilities the operation of which can be improved by management services and supervision provided by DVR or DSBVI, the provision of such services and supervision, along or together with the acquisition by DVR or DSBVI of vending facilities or other equipment and initial stocks and supplies.
(2) Equipment for clients who are going into self-employment requires prior approval from RSA.
(3) Transition services to youth and students with disabilities who may not have applied or been determined eligible for vocational rehabilitation services, that involve collaboration of a vocational rehabilitation counselor with education agencies, programs serving individuals with developmental disabilities, businesses, workforce programs, independent living centers, housing and transportation authorities and related entities. Such services are to benefit a group of youth or students with disabilities and may not be individualized services related to an individual plan for employment. Services may include group tours of training programs and businesses, career fairs, interview practice, resume writing, and other group activities that support future employability.
(4) High school students who have a disability and are not clients of the DRS, but are going to a conference or camp to provide them with the necessary tools and education for employment requires prior approval from RSA.
(5) The use of telecommunications systems (including telephone, television, video description services, tactile-vibratory devices, satellite, radio, and other similar systems) that have the potential for substantially improving delivery methods of activities described in this section and developing appropriate programming to meet the particular needs of individuals with disabilities;
(6) Special services to provide access to information for individuals who are blind, visually impaired, deaf, hard of hearing or deaf-blind including:
(A) the use of telecommunications, Braille, sound recordings, or other appropriate media;
(B) captioned television, films, or video cassettes for individuals who are deaf or hard of hearing;
(C) tactile materials for individuals who are deaf-blind; and
(D) other special services that provide information through tactile, vibratory, auditory, and visual media.
(7) Technical assistance to businesses that are seeking to employ individuals with disabilities.
(8) Consultative and technical assistance services to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including employment.
(9) The establishment, development or improvement of assistive technology demonstration, loan, reutilization or financing programs in coordination with activities authorized under the Assistive Technology Act of 1998.
(10) The establishment, development or improvement of a community rehabilitation program that is used to provide vocational rehabilitation services that promote integration into the community and prepare individuals with disabilities for competitive integrated employment.

PART 3. CASE PROCESSING REQUIREMENTS

612:10-7-20. Case recording [AMENDED]

(a) A case record will be established and maintained on each individual who applies for and/or receives vocational rehabilitation services. Narrative recordings of activities are mandatory at application, at eligibility, the development of the plan, program/financial reviews, and case closure. An action in any case is not considered effective until all required approvals have been obtained in accordance with Department policy. Documentation must be factual and conform to ethical and professional standards.
(b) If records or documentation need to be altered, it is done so according to DRS rules and in a manner that preserves the original information. Alterations are accompanied by the date of change, the identity of who made the change, and the rationale for the change.

612:10-7-25.1. Ability to serve all eligible individuals; order of selection for services [AMENDED]

(a) **General provisions.** DRS either must be able to provide the full range of services listed in section 103 (a) of the Act and 34 CFR 361.48, as appropriate, to all eligible individuals or, in the event that vocational rehabilitation services cannot be provided to all eligible individuals in the State who apply for the services, include in the vocational rehabilitation services portion of the Unified or Combined State Plan the order to be followed in selecting eligible individuals to be provided vocational rehabilitation services.

(1) The ability of the designated State unit to provide the full range of vocational rehabilitation services to all eligible individuals must be supported by a determination that satisfies the requirements of paragraph (b) or (c) of this section and a determination that, on the basis of the designated State unit's projected fiscal and personnel resources and its assessment of the rehabilitation needs of individuals with significant disabilities within the State, it can follow the guidance according to 34 CFR 361.36 (a).

(2) Prior to the start of each fiscal quarter, or when circumstances require, the DRS Director will determine in which priority groups new Individualized Plans for Employment will be written and initiated. The Director may restrict the writing and initiation of new Individualized Plans for Employment within a priority group to cases having eligibility dates falling on or before a specified date providing that all individual's in higher priority groups are being served. Considerations in making this determination will include, but not be limited to, the projected outcomes, service goals, expenditures, and resources available for each priority group. Projected costs and resources for each priority group will be based upon costs of current Individualized Plans for Employment, anticipated referrals, availability of financial resources, and adequacy of staffing levels. The Director will implement actions under the order of selection through written notice to DVR and DSBVI staff.

(b) **Basis for assurance that services can be provided to all eligible individuals.** For the State agency that determined, for the current fiscal year and the preceding fiscal year, that it is able to provide the full range of services, as appropriate, to all eligible individuals, the State unit, during the current fiscal and preceding fiscal year, must have in fact followed the criteria in 34 CFR 361.36 (b) (1-2).

(c) **Determining need for establishing and implementing an order of selection.** The State agency must determine, prior to the beginning of each fiscal year, whether to establish and implement an order of selection.

(d) **Need for order of selection.** The Department, in consultation with the Oklahoma Rehabilitation Council, has determined, due to budgetary constraints or other reasoned limitations, that it cannot serve all individuals who are determined eligible for DVR and DSBVI services. The Department consults with the Oklahoma Rehabilitation Council (ORC) regarding the:

(1) need to establish an order of selection, including any re-evaluation of the need;

(2) priority categories of the particular order of selection;

(3) criteria for determining individuals with the most significant disabilities; and

(4) administration of the order of selection.

(e) **Establishing an order of selection.** Basis for order of selection. An order of selection must be based on a refinement of the three criteria in the definition of individual with a significant disability in section 7 (21) (A) of the Act and 34 CFR 361.5 (c) (30).

(1) Factors that cannot be used in determining order of selection of eligible individuals. An order of selection may not be based on any other factors, including requirements identified in 34 CFR 361.36 (d) (2) (i-vii).

(2) It is the administrative rules of DRS to provide vocational rehabilitation services to eligible individuals under an order of selection. Under the order of selection, the Department has established three priority groups on the basis of serving first those with the most significant disabilities. Every individual determined to be eligible for DVR and DSBVI services is placed in the appropriate priority group based upon the documentation used to determine eligibility and/or vocational rehabilitation needs. Selection and placement in a priority group is based solely upon the significance of the eligible individual's disability, and is not based upon the type of disability, geographical area in which the individual lives, projected type of vocational outcome, age, sex, race, color, creed, religion, or national origin of the individual. The priority groups are:

(A) **Priority Group 1.** Eligible individuals with a most significant disability are individuals with the most significant barriers to employment. A most significant barrier is one that includes a severe mental or physical impairment resulting in serious limitations in three or more functional capacities and which can be expected to require multiple vocational rehabilitation services over an extended period of time.

(B) **Priority Group 2.** Eligible individuals with a significant disability are individuals with significant barriers to employment. A significant barrier is one that includes a severe physical or mental impairment resulting in serious limitations in at least one, but not more than two, functional capacities and which can be expected to require multiple vocational rehabilitation services over an extended period of time.

(C) **Priority Group 3.** Eligible individuals with disabilities not meeting the definition of individual with a most significant or ~~most~~ significant barrier to employment.

(f) **Administrative requirements.** In administering the order of selection, the State agency must implement the order of selection on a statewide basis according to 34 CFR 361.36 (e) (1-3) (i-ii). ~~(1)~~ Notification of Priority Group Placement:Upon placement into a priority category, the client shall receive written notification of his or her priority classification and information regarding the policies and procedures governing availability of vocational rehabilitation services, including notification of placement on a wait list, when applicable and a referral to other programs that are part of the one-stop service delivery system under the WIOA that can address the individual's training or employment related needs. 34 CFR 361.43 (d) (1-2) the written notification shall include information about Due Process rights and the Client Assistance Program. The electronic case management system will contain a copy of the written notification.

(~~A~~1) When a client is reclassified into a different priority category, he or she shall be notified, in writing, of the new priority category and provided written information as to how the change will affect the availability of vocational rehabilitation services. The written notification shall include information about Due Process rights and the Client Assistance Program.

(~~B~~2) An applicant who has been determined eligible for vocational rehabilitation will be placed in Eligibility Status, for completion of a comprehensive assessment to determine employment goal and rehabilitation needs and for development of the Individualized Plan for Employment (IPE). An individual who is placed in an order of selection priority group that is not currently being served will be placed on a waiting list and held there pending further directives from the Director concerning opening or closing of priority groups.

(~~C~~3) If an applicant is determined to be ineligible, the counselor will notify the applicant and provide information on further options in accordance with DRS administrative rules on ineligibility decisions and 34 CFR 361.57 (b) (2) (ii or iv).

PART 5. CASE STATUS AND CLASSIFICATION SYSTEM

612:10-7-50.1. Assessment for determining rehabilitation needs [AMENDED]

(a) **Rehabilitation needs.** DRS will conduct an assessment for determining rehabilitation needs, if appropriate, for each eligible individual or, if the agency is operating under an order of selection, for each eligible individual to whom the agency is able to provide vocational rehabilitation services. The purpose of this comprehensive assessment is to assist the client in selecting an employment goal and to determine the nature and scope of vocational rehabilitation services to be included in the Individualized Plan for Employment (IPE).

(b) **Comprehensive assessment.** Existing information obtained from the assessment to determine eligibility and priority group assignment, including information supplied by the individual or the individual's authorized representative, is to be used for the comprehensive assessment to the maximum extent possible. Additional assessments may be obtained to the extent additional information is necessary to determine the vocational rehabilitation needs of the individual and to develop the IPE. Rehabilitation technology will be used in the comprehensive assessment when necessary to assess and/or develop the capacities of the individual to perform in a work environment.

(c) **Case recording requirements.** The results of the comprehensive assessment and the counselor's analysis of them will be recorded in a case narrative. The narrative will contain reasonable justification of the employment goal and services that will be provided in the IPE, considering the unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice of the individual.

(d) **Comprehensive assessment for supported employment.**

(1) In supported employment cases, the record must document the counselor's determination that the client is an individual:

(A) for whom competitive employment has not traditionally occurred; or

(B) for whom competitive employment has been interrupted or intermittent as a result of a ~~severe~~ significant disability; and

(C) who, because of the nature and severity of the disability, needs intensive supported employment services, and extended services after the transition from intensive supported employment services, ~~in order~~ to perform such work.

(2) The counselor refers the client to ~~a~~ an ~~supported~~ employment services provider to gather the information necessary to complete the comprehensive assessment~~;~~, ~~and authorizes the "Assessment and Career Planning" milestone. The provider will conduct situational assessments in community settings based on client choice and negotiations with the counselor, and in accordance with their contract requirements.~~ The counselor will authorize career exploration and/or assessment from the Supplemental Employment Services (SES) contract to conduct

activities and/or situational assessments. The ~~Results~~ results of the exploration activities and/or assessments will assist the client and counselor in establishing a vocational goal.

612:10-7-55. Job Ready [AMENDED]

(a) **The Use of Job Ready Status:** Job Ready Status is used to identify individuals who are qualified, willing and able to begin an active job search. Job Ready Status can also be used for individuals pursing a variety of work experiences, including internships, apprenticeships, or temporary jobs to supplement income while attending school or receiving other vocational rehabilitation services. Job Ready status can be used at any time during the life of the case, once an Individual Plan for Employment (IPE) is in place.

(1) Job Ready Status should only be used after consultation with the Participant to insure the person is aware they are considered an active job seeker and may be contacted about employment or work experiences in which they have expressed an interest. Also, Job Ready Status should not be used for those who have been referred to an Employment Services Provider for assistance with services such as Employment & Retention, Customized Employment, Supported Employment, Job Placement, Supplemental Employment Services, JOBS, etc.

(2) Those individuals who are in job ready status but are no longer participating in a job or work experience search should be removed from Job Ready Status. Individuals who have located a job or work experience and are not currently pursuing another position should also be removed.

(b) **Case RecordingRequirements:** The information on the Job Ready page in AWARE case management system should be completed in conjunction with the Participant to insure it is accurate and timely. The information should be reviewed periodically to make sure it is up-to-date.

612:10-7-56. Employment [AMENDED]

(a) **Use of Employment status.** A case is placed in this status when the client begins employment. The client must be followed in employment for a minimum of 90 days prior to being closed to ensure the adequacy of the employment in relation to the needs and limitations of the client.

(b) **Supported employment.** Cases are placed into employment status after the requirements have been met for completion of the "Stabilization" Milestone, and the client is ready to begin the final milestone, "Successful ~~Rehabilitation~~ Employment". During this milestone, the provider must continue ongoing supports for a minimum of 90 days before the case can be closed.

(c) **Employment and Retention.** Cases are placed into employment status when the individual has completed the ~~fifth day of work ("Job Placement" Milestone), or after completion of~~ "R4 Four Weeks Job ~~Support~~ Support-Retention" Milestone ~~if~~ which includes short term job coach training ~~or~~ and support ~~is needed~~. The client must be followed in employment for a minimum of 90 days prior to being closed.

(d) **Case recording requirements.** After the client has entered employment, it is the client's responsibility to provide the counselor with the job title of employment and salary information. When an individual is placed in employed status, case recording will document:

(1) Beginning date of employment;

(2) Name and address of the employer;

(3) Job title which describes the position held by the individual;

(4) Client's hourly wages and hours worked per week to determine weekly earnings;

(5) Suitability of the employment; and

(6) How the job was obtained. If the information is obtained from a source other than the client, the source of the information will be identified.

(e) **Contact.** When a client is placed in employed status, contact is maintained through the end of the required 90 days and documented until it is determined the employment is satisfactory and the case can be closed. This determination that the employment outcome is satisfactory will be made with the full participation of the client.

(f) **Case recording.**

(1) Documentation of all contacts with the client during the 90 days, to address any employment related issues, including satisfaction with the employment.

(2) Documentation in a case note of the start date of employment, type of employment (i.e. cook, housekeeper, lawyer) employer name address, hourly/weekly wages and benefits.

(3) When applicable, and information is not obtainable from the client, the counselor will document the employment, type of employment (i.e. cook, housekeeper, lawyer) employer name and address, hourly/weekly wages and benefits including by what means the employment was discovered and the date of the discovery of employment.

(4) Attempts to obtain verification of employment earnings will be documented in a case note including the reason as to why this verification was not forthcoming.

612:10-7-58. Closed Rehabilitated [AMENDED]

(a) **Use of Closed Rehabilitated status.** A case is closed as rehabilitated because the client has achieved an employment outcome as a result of vocational rehabilitation services. Cases closed as rehabilitated must as a minimum meet the requirements in (1) through (5) of this Subsection:

(1) the provision of services under the individual's IPE has contributed to the achievement of the employment outcome;

(2) the employment outcome is consistent with the individual's strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice;

(3) the employment outcome is in an integrated setting, consistent with the individual's informed choice;

(4) the individual has maintained the employment outcome for a period of at least 90 days; and

(5) at the end of the appropriate period under Paragraph (4) of this Section, the individual and the VR Counselor consider the employment outcome to be satisfactory and agree that the individual is performing well on the job.

(b) **Out of state.** Clients who move out of state after services have been completed are closed in rehabilitated status if the requirements in Subsection (a) of this Section can be met. If those requirements cannot be met the case will be closed, not rehabilitated.

(c) **Successful closure prior to completion of IPE.** If employment is secured before completion of the IPE, a counselor must document the conditions of substantial services and suitable employment were met. If planned services are interrupted prior to achieving the originally planned vocational goal, and services provided have directly contributed to the employment outcome for the individual or to job retention, an IPE amendment is not needed to revise the vocational goal prior to closure. A plan amendment is required when there is a substantial deviation from the original employment goal.

(d) **Cases closed from supported employment.** An individual with the most significant disabilities who is receiving supported employment services is considered to be successfully rehabilitated if the individual maintains a supported employment placement for a minimum of 90 days beyond stabilization. In addition to the criteria for "suitably employed", the counselor must document that the individual has met or has made substantial progress toward meeting the weekly work goal defined in the IPE, the client is satisfied with the job, the employer is satisfied with the client's job performance, extended services are in place, all supported employment requirements have been met, and the case is ready for closure. The closure documentation will address any significant differences in the ultimate work week achieved as compared with the predicted goal.

(e) **Cases closed from employment and retention.** An individual with ~~severe~~ significant disabilities who is receiving employment and retention services is considered to be successfully rehabilitated when the client maintains employment for a minimum of 90 days ~~after placement, or for a minimum of 4 weeks plus 90 days if the individual required~~ beyond the "4 Weeks Job ~~Support~~ Support-Retention" Milestone.

(f) **Case recording requirements.** The client, or the client's authorized representative as appropriate, will be a full participant in the decision to close the case. The last discussion of the closure decision with the client, or the client's authorized representative, will be held at the end of the required 90 days of the closure, and will be documented in a case narrative. The client will be notified in their preferred format of the case closure.

(g) **Documentation at Successful Closure.** Prior to closure, a copy of the current pay stub identifying the individual's competitive hourly wage and hours to determine weekly earnings. If the current pay stub is not available, then the following is acceptable:

(1) An individual's written report of employment information and required wage information documented on an authorized DRS form (DRS-C-065) with their dated signature; or

(2) A detailed case note identifying the individual's employment information including the current competitive hourly wage and work hours in a typical week that is based on the counselor's conversation with the actual employer. Prior to calling an employer, the individual shall be informed that information provided and gathered is limited to what is necessary to document and verify employment. This provides the individual the opportunity to discuss preferences and options for obtaining required documentation. A signed Release of Information should be in the case file.

(3) If verification as stated above is not forthcoming and all efforts to obtain acceptable verification are documented, then the following is acceptable: a detailed case note identifying the individual's employment information including the current competitive hourly wage and work hours in a typical week, the date the final employment verification was received with justification for the individual not providing formal documentation.

(4) Individuals who are self-employed are required to provide wage documentation of competitive integrated self-employment.

PART 9. ACTIONS REQUIRING REVIEW AND APPROVAL

612:10-7-87. Actions requiring supervisor's approval [AMENDED]

(a) Actions requiring supervisory approval include:

(1) All actions of a newly employed counselor/teacher.

(2) All IPE's or amendments when the total of the planned DVR and DSBVI expenditures for the entire case exceed $25,000.

(3) All case closures in which an IPE was developed and the case was placed into service status or beyond.

(4) Transfer of cases from one counselor/teacher caseload to another outside the sending supervisor's unit (signed by the supervisor of the sending counselor or teacher).

(5) All IPE's which include purchase of physical or mental restoration services, prescription drugs or prescribed medical supplies lasting more than three months.

(6) Small Business plans with a cost to the agency in excess of ~~$10,000.00~~ $5,000.00.

(7) Vehicle or home modifications over the OMES-DCAM authority order limit and housing modifications involving structural modifications.

(8) Vehicle repairs that exceed $1,000.00 for the life of a case.

(9) Dental services with a projected cost over $5,000.00.

(b) Documentation in a case note of when verbal approval may be given.

PART 14. COMMUNITY PROVIDER EMPLOYMENT SERVICES [NEW]

612:10-7-134. Competitive integrated employment [NEW]

Competitive integrated employment for individuals receiving employment services is defined as employment performed on a full-time or part-time basis in an integrated setting, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual. The individual is compensated at or above minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals without disabilities. **(See 34 CFR 361.5(c)(9).)** Wages must be paid by the employer instead of the contractor, unless the contractor is the employer of record, and the wage meets the ONET median hourly wage, (www.onetonline.org) for the type of job and location of the job.

612:10-7-135. Supplemental Employment Services (SES) [NEW]

(a) **Overview of Supplemental Employment Services (SES).** Supplemental Employment Services (SES) are intended for individuals with disabilities, who need on-site and off-site support and training to prepare for and obtain competitive integrated employment. These services can be used individually or with other employment contracts to meet the individual's needs.

(b) **Provision of Supplemental Employment Services (SES).** Supplemental Employment Services (SES) are not subject to financial status determination. SES services are purchased from a qualified contractor with the Oklahoma Department of Rehabilitation Services and are provided by certified employment consultants or job coaches. Payment rates are established by the Commission for Rehabilitation Services.

(c) **Eligibility for Supplemental Employment Services (SES).** An individual shall be eligible for supplemental employment services if:

(1) The individual is determined to be eligible for vocational rehabilitation services;

(2) The individual needs support from a qualified contractor to prepare for and/or obtain successful employment.

612:10-7-136. Job Placement Services [NEW]

(a) **Overview of Job Placement Services.** Job Placement (JP) Services are provided to individuals having one or more disabilities, not meeting the definition of an individual with a significant or most significant barrier to employment, who need assistance from an employment consultant to identify and implement accommodations to assist the individual with maintaining successful employment. Job Placement Services consists of the Successful Employment Milestone.

(b) **Provision of Job Placement Services.** Job Placement (JP) services are not subject to financial status determination. JP services are purchased from a qualified contractor with the Oklahoma Department of Rehabilitation Services and are provided by certified employment consultants or job coaches. Payment rates are established by the Commission for Rehabilitation Services and are based on a milestone delivery system.

(c) **Eligibility for Job Placement Services.** An individual shall be eligible for job placement (JP) services if:

(1) The individual is determined to be eligible for vocational rehabilitation services;
(2) The individual is determined to have one or more disabilities, not meeting the definition of an individual with a significant or most significant barrier to employment; and
(3) The individual needs assistance from an employment consultant to identify and implement accommodations to assist with maintaining successful employment.

612:10-7-137. JOBS Services [NEW]

(a) **Overview of JOBS Services.** JOBS services are intended to assist individuals with job placement to meet their financial needs, (i.e., housing, transportation, daily living expenses, etc.) while completing other services on their Individualized Plan for Employment (IPE), and before pursuing placement in their chosen IPE vocational goal. This contract is open to individuals in all priority groups who do not need on-site support, but may need accommodations.
(b) **Provision of JOBS Services.** JOBS services are not subject to financial status determination. JOBS services are purchased from a qualified contractor with the Oklahoma Department of Rehabilitation Services and are provided by certified employment consultants or job coaches. Payment rates are established by the Commission for Rehabilitation Services.
(c) **Eligibility for JOBS Services.** An individual shall be eligible for JOBS services if:
(1) The individual is determined to be eligible for vocational rehabilitation services; and
(2) The individual requires assistance with obtaining employment to meet financial needs (i.e., housing, transportation, daily living expenses, etc.) while completing other services on their Individualized Plan for Employment (IPE), and before pursuing placement in their chosen IPE vocational goal.

612:10-7-138. Support Services for Employment (SSE) [NEW]

(a) **Overview of Support Services for Employment (SSE).** Support Services for Employment are intended for individuals who require additional support to manage disability-related issues or barriers that limit their ability to achieve or maintain competitive, integrated employment.
(b) **Provision of Support Services for Employment (SSE).** Support Services for Employment (SSE) are not subject to financial status determination. SSE services are purchased from a qualified contractor with the Oklahoma Department of Rehabilitation Services and are provided by certified employment consultants or job coaches.
(1) An Employment Support Assessment (ESA) of the individual's level of independence and support needs is used by the individual and DRS Counselor to identify needed services and supports.
(2) Services identified in the ESA may include, but are not limited to training in the following areas:
(A) accessing public transportation;
(B) securing reliable transportation;
(C) assisting individuals in obtaining the information/items necessary to meet the requirements for an I-9;
(D) teaching skills for obtaining worksite and/or training facility modifications or accommodations;
(E) navigation in a new environment such as a college campus;
(F) advocacy/assertive skills to develop their independence in employment situations;
(G) choosing and caring for appropriate work clothing;
(H) banking skills;
(I) assisting the individual in obtaining a food handler’s card (if needed);
(J) training in the management of personal assistant services, and/or;
(K) Other.
(i) SSE services are intended to be used individually or with other employment contracts to meet the individual’s employment needs. These services are open to individuals in all priority groups.
(ii) This service cannot be used to provide the individual with transportation or assistance to or from appointments, the worksite, or the college campus. It is not to be used in place of public transportation or when the individual has circumstances that arise that prevent self-transportation.
(iii) Optional Team Meetings can be conducted anytime throughout the delivery of services as needed to address progress or concerns related to the successful completion of SSE services.
(c) **Eligibility for Support Services for Employment (SSE).** An individual shall be eligible for support services for employment if:
(1) The individual is determined to be eligible for vocational rehabilitation services; and

(2) they require additional support to manage disability-related issues or barriers that limit their ability to achieve or maintain competitive, integrated employment.

PART 15. TRAINING

612:10-7-164. Personal and work adjustment training [AMENDED]

(a) Personal and/or work adjustment training is provided by facilities and schools having valid contracts with the Department.

(b) Personal or work adjustment training is the provision of skills or techniques for the purpose of enabling the individual to compensate for a disability such as the loss of a member of the body or the loss of sensory function.

(1) Work adjustment training includes but is not limited to:

(A) conditioning activities for developing work tolerance,
(B) work therapy,
(C) occupational therapy,
(D) lip reading,
(E) speech therapy,
(F) auditory training,
(G) gait training,
(H) diabetes education training,
(I) driver's training, and
(J) mobility training.

(2) Personal adjustment training may also include:

(A) development of personal habits,
(B) attitudes, and
(C) work habits necessary to orient the individual to the world of work.

(3) This service does not require client participation in cost of services. High school students eligible for this service must be at least 16 years of age and may not participate for more than ~~18~~ 24 months unless client and counselor determine additional time is needed.

PART 17. SUPPORTED EMPLOYMENT SERVICES

612:10-7-179. Overview of Supported Employment Services [AMENDED]

Supported ~~employment~~ Employment ~~services~~ Services are provided to individuals with the most ~~severe~~ significant disabilities who need support on and off the job to obtain and maintain employment and who require~~.~~;

(1) A significant degree of job site support to learn job tasks, gain work adjustment skills, and stabalize in employment, and;

(2) Long-term support to retain employment.

612:10-7-180. Eligibility for the Supported Employment ~~Program~~Services [AMENDED]

An individual shall be eligible for supported employment (SE) services if:

(1) The individual is determined to be eligible for vocational rehabilitation services;

(2) The individual is determined to be an individual with the most ~~severe~~ significant disabilities; ~~and~~

(3) A comprehensive assessment of rehabilitation needs of the individual, including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate rehabilitation objective for the individual~~.~~; and

(4) The counselor may not find an individual ineligible for supported employment services because a resource for providing extended services cannot be identified. In this instance, the couselor will:

(A) accept the individual as eligible for VR services;
(B) plan VR services as appropriate, including the expected availability of extended services; and
(C) seek out and/or help in developing the needed extended services resource.

612:10-7-182. Competitive ~~employment for supported employment~~ integrated employment for Supported Employment clients [AMENDED]

Competitive integrated employment for individuals receiving ~~supported~~ Supported ~~employment~~ Employment services ~~clients~~ is defined as employment performed on a full-time or part-time basis in an integrated setting, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual. The individual is compensated at or above minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled. (See 34 CFR 361.5(c)(9)). Wages must be paid by the employer, not the ~~vendor~~ contractor, unless the contractor is the employer of record, and the wage meets the ONET median hourly wage, www.onetonline.org for the type of job and location of the job..

612:10-7-183. Ongoing support services [AMENDED]

The individual will be provided needed and appropriate ongoing support services such as job site training, transportation, service to family members, or any service necessary to ~~achieve and~~ maintain the ~~supported~~ successful employment ~~placement~~ throughout the term of employment. DVR and DSBVI sponsored support services are provided from the t~~ime of placement~~ first day of employment until the individual is stabilized on the job (completion of "Stabilization Milestone") by the ~~service provider~~ contractor.

612:10-7-184. Extended services [AMENDED]

Extended services are a continuation of ongoing support services provided to individuals in Supported Employment at completion of stabilization, during the "Successful Rehabilitation" Milestone and beyond case closure. Such services consist of the provision of specific services, including natural supports, needed to maintain the ~~supported~~ successful employment ~~placement~~. Extended services are specifically identified in the IPE. Except as provided by federal law with regard to youth with the most significant disabilities, extended services are paid from funding sources other than DVR and DSBVI. An individual may not be found ineligible for supported employment services because the resource for providing extended services cannot be identified.

612:10-7-185. Provision of supported employment services [AMENDED]

(a) Supported employment (SE) services are provided by DRS for a period of time not to exceed the period specified in federal law, unless under special circumstances the eligible individual and the rehabilitation counselor jointly agree to extend the time in order to achieve the rehabilitation objective identified in the IPE.

(b) Supported employment services are not subject to financial status determination. Services are purchased from a qualified ~~vendor~~contractor ~~under contract~~ with the Oklahoma Department of Rehabilitation Services and are provided by certified employment consultants or job coaches. Payment rates are established by the Commission for Rehabilitation Services and are based on a milestone delivery system ~~of service milestones~~.

(c) Supported employment services may include:

~~(1) Situational assessments to help develop, finalize or reassess a supported employment plan of services;~~

~~(2) Job development and job placement;~~

(~~3~~1) Time-limited job coach services to provide intensive on-the-job skills training and additional training and support services needed to achieve and maintain job stability, including follow-up services with employers and others for the purpose of supporting and stabilizing the job placement; and

(2) Post-employment services following an individual's transition to extended services, when such services are not available from an extended service provider and are necessary to maintain or regain the job placement or advance in employment. Services may include job coaching, job station redesign, repair and maintenance of assistive technology and repair and replacement of orthotic and prosthetic devices.

(d) DRS must utilize ~~re-placement services~~Additional Employment Services for individuals who lose a job ~~within two years of~~after achieving a successful rehabilitation outcome, and prior to DRS case closure, if the counselor determines extended services are not adequate to cover re-placement and DRS assistance is necessary. ~~Re-placementservices~~ Additional Placement Services include ~~Vocational Preparation/Job Club,~~ Four (4) Weeks Job Support, Job Stabilization and Successful Rehabilitation.

(e) Transitional employment services are available for individuals with serious mental illness. Transitional employment is designed to assist individuals who have not had significant, successful or recent work experience to build work adjustment skills and ego strength/self-esteem, develop a positive work history, learn adjustment skills in a real work environment or clarify their strengths and interests. Transitional employment prepares individuals to make future employment and career decisions.

PART 18. EMPLOYMENT AND RETENTION SERVICES

612:10-7-186. Overview of Employment and Retention Services [AMENDED]

Employment and Retention (E&R) Services are provided to individuals with significant disabilities who need short-term job coach supports ~~for individuals with significant disabilities, requiring assistance preparing for, obtaining, and~~to ~~maintaining~~ maintain successful employment. ~~This service model~~Employment and Retention Services consists of ~~5~~the Four Weeks Job Support - Retention, and the Successful Employment Milestones.

612:10-7-187. Eligibility for Employment and Retention Services [AMENDED]

An individual shall be eligible for employment and retention (ER) services if:

(1) The individual is determined to be eligible for vocational rehabilitation services;

(2) The ~~client~~individual is determined to be an individual with significant disabilities~~;~~; and

(3) The ~~client~~individual needs short-term job coach support ~~in preparing for, obtaining, and/or maintaining~~to maintain successful employment.

612:10-7-188. Provision of ~~employment and retention services~~Employment and Retention Services [AMENDED]

Employment and retention (E~~&~~R) services are not subject to financial status determination. E~~&~~R services are purchased from a qualified ~~vendor~~contractor ~~under contract~~ with ~~DRS~~the Oklahoma Department of Rehabilitation Services and are provided by certified employment consultants or job coaches ~~or employment training specialists~~. Payment rates are established by the Commission for Rehabilitation Services and are based on a milestone delivery system. ~~Employment and retention services can be initiated during the final graduating semester of high school.~~

612:10-7-189. Competitive integrated employment for Employment and Retention [AMENDED]

Competitive integrated employment for ~~persons~~individuals receiving Employment and Retention services is defined as employment performed on a full-time or part-time basis in an integrated setting, consistent with the strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice of the individual. The individual is compensated at or above minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled. (See 34 CFR 361.5(c)(9)). ~~is defined in DRS policy.~~ Wages must be paid by the employer instead of the ~~vendor~~contractor, unless the contractor is the employer of record, and the wage meets the ONET median hourly wage, www.onetonline.org for the type of job and location of the job.

PART 21. PURCHASE OF EQUIPMENT, OCCUPATIONAL LICENSES AND CERTIFICATIONS

612:10-7-221. Housing Modification [AMENDED]

(a) Modification of a residence may include installation of ramps, widening of doors, installation of grab bars and other accessibility modifications when such modifications are necessary to support the client in achievement of an employment outcome. DRS will not provide major structural modifications such as elevators, room additions or major wall removal. Housing modifications that will cost more than the OMES-DCAM authority order limit require supervisor approval. All housing modifications are subject to the Prior Approval from RSA in accordance with 2 CFR 200.439.

(b) In all situations where housing modification is to be done, the owner of the house must provide proof of ownership, sign a written release form, and be current on mortgage payments. DRS will not provide permanent modification to rental properties but may assist with portable/removable modifications. The renter/client is responsible for obtaining prior written permission from the owner for any portable/removable modifications. The counselor must make a referral to the Assistive Technology (AT) Specialist who will then evaluate the residence recommending modifications needed to make the residence accessible for the client. After modifications have been completed the counselor will contact the AT Specialist for inspection of the home, to ensure the modifications conform to prescribed standards and meet the client's accessibility needs. The AT Specialist will provide a report to the counselor that will contain pictures of the completed work and a signed statement of satisfaction from the client.

(c) Once the Assistive Technology (AT) Specialist has completed the initial evaluation of a home for a home modification and the report is received back to the counselor:

(1) The counselor has six (6) months to act on the AT Evaluation, in that, it must be sent to Purchasing for bidding/out to bid, prior to six months from the date of the AT Evaluation, or a new evaluation must be done. An AT Report should not be more than six months old. Many things can happen in six months, especially in older homes, such as, settling, damage from storms, etc. A new report will be required after this period of time.

(2) No second egress on any home modification. Our purpose is to get the client out the front door to go to work. If the client feels the necessity to have a second egress, then that should be up to them or the homeowner, that is not the purpose of DRS.

PART 23. SELF-EMPLOYMENT PROGRAMS AND OTHER SERVICES

612:10-7-230. Self-employment programs [AMENDED]

(a) Self-employment is not a vocational goal itself but a method of achieving employment. Self-employment programs may be divided into Contract Labor and Self-Employment.

(1) Contract Labor. Employment is contract labor when the client has a contract or on-going business with a company or person to provide a specific product or service for a fee. The service or product is produced to meet the vendor's specifications and needs. The purchasing company often supervises the work.

(2) Self-Employment. In Self-Employment, the client owns, manages and operates a business selling goods or services for the purpose of making a profit~~, ex: (Business Enterprise Program)~~. Self-Employment ranges from sole proprietorships and independent contractors to multi-employee companies and independent franchise operations.

(A) The client must have the proper skills and managerial ability to succeed in the trade or occupation for which the services are provided; and

(B) The client must have adequate resources available for the proper maintenance and upkeep of the required tools, equipment, and stocks. The client is responsible for the maintenance and repair of any tools, equipment, and stocks.

(b) Agency Role. The role of the VR Agency is not to serve as the sole funding source for self-employment endeavors. Other funding resources must be researched and utilized when available. DRS may participate in partially funding small business start-up or the retention of an existing client owned and operated business but does not have a capital or loan program for the establishment businesses. These investment resources must come from other sources. DRS will assist the client in making informed decisions, reduce or eliminate the barriers created by the disability(ies), training regarding small business development/self-employment, and assisting the individual in identifying possible funding resources.

(c) DRS will not assist with services to maintain or expand an existing self-employment business. However, services can be offered which might address changes brought on by a disabling condition that limits or interferes with a person's ability to continue to operate their business independently. These services might include but are not limited to such things as AT assessment for changes in worksite or job tasks; recommendations for purchase of adaptive equipment; worksite or vehicle modifications that are needed for a person to continue operating their business; or training in the use of required adaptive equipment or techniques. Before consideration will be given to assisting with an existing business the client must provide copies of the most recent two years of profit and loss statements and/or tax returns showing business profitability. DRS will not support businesses that have failed to demonstrate profit sufficient to support the individual financially.

(d) When to Consider Self-employment. The counselor may consider self-employment when all of the following guidelines have been met.

(1) The income derived from a self-employment plan is to be the primary source of support.

(2) Is the client's informed choice consistent with their unique strengths, resources, priorities, concerns, abilities, capabilities and interests.

(3) When a client expresses interest in self-employment, the individual will be required to participate in a vocational assessment with focus on self-employment potential. The assessment will include a self-evaluation completed by the client.

(4) The counselor will document, as appropriate, in the comprehensive assessment that the client has the academic, communication and managerial skills to manage their own business and the resources to demonstrate a likelihood of success.

(e) Once it has been determined by DRS that self-employment is a feasible goal, an IPE will be written to further assist the self-employment concept and the client is sent to training for developing a business plan.

(f) Certain individuals may require on-going supports or services for a business plan to be successful. The counselor will assist the individual in identifying and securing these support services. DRS cannot be responsible for funding these supports following successful employment outcomes.

(g) Clients who are receiving SSI/SSDI will be referred to a DRS Benefits Planner to review how profits from self-employment will affect their benefits prior to the completion of an Individualized Plan for Employment.

(h) The agency may provide some financial assistance toward self-employment plans that have met the requirements as specified in policy. The counselor will determine the client's financial status and any required financial participation by the client. The client's contribution may come from personal resources, property, loans, PASS plan funds or small business start-up grants from other assistance programs. A client who is receiving SSI/SSDI must submit a Plan to Achieve Self-sufficiency to SSA for review and consideration before any DRS funds can be expended toward a self-employment start up business.

(i) Any required client financial participation is applied to the cost of planned services.
(j) The agency's contribution to a self-employment plan will not exceed $5,000 without supervisory approval.
(k) The Agency will consider three-tiers of support for self-employment.
(1) Tier 1 is for self-employment plans that are considered low cost, simple and considered low risk. These cases will be limited to DRS financial contribution up to $5,000. DRS will cover 100% of costs minus any required client financial contributions. In Tier 1 cases the client is required to provide the Basic Business Plan which includes the following items:
(A) Business feasibility study.
(B) Monthly personal and living expenses worksheet.
(C) Business start-up expenses worksheet.
(D) Projected monthly case flow worksheet showing business profits versus cost of operations.
(2) Tier 2 is for self-employment businesses with anticipated costs from $5,000 up to $10,000. In these cases the client is responsible for providing 25% of the anticipated costs. Client contribution can come in many forms including the use of existing equipment or home/office space which the client owns: bank loans; PASS Plans, or any other Agency approved financial contribution. All IPE's included in Tier 2 with planned expenses over $5,000 must be reviewed and approved by the Programs Manager. In Tier 2 self-employment cases the client is required to provide the Comprehensive Business Plan that includes:
(A) Detailed description of the proposed business.
(B) Market research.
(C) Sales Plan.
(D) Management Plan.
(E) Business License and City Zoning regulations.
(F) Supporting documents will include:
(i) List of identified vendors.
(ii) Items requested to be paid by DRS.
(iii) Items and resources provided by client.
(iv) Credit Report.
(v) Copy of the client's last two years of tax returns if they were required to file.
(vi) A 100 form completed and signed by the client to be submitted to the Oklahoma Tax Commission for disclosure of tax information.
(3) Tier 3 self-employment cases are those with an anticipated cost which exceeds $10,000. Tier 3 cases will require the same supporting documentation as Tier 2. In Tier 3 the client will be required to contribute a minimum of 50% of the anticipated costs exceeding $10,000. All Tier 3 self-employment cases require review and approval by the Field Coordinator.
(4) Tier 2 and Tier 3 self-employment proposals will be required to have their Business Plan reviewed and approved by Agency designated staff and/or Review Panels.
(l) Items that the agency will not approve for funding include:
(1) Construction or purchase of real estate.
(2) Businesses that are speculative in nature such as stocks, bonds or other investments or considered speculative by the Better Business Bureau.
(3) Businesses that are organized as not for profit.
(4) Businesses organized as hobbies.
(5) Purchase of vehicles including farming, ranching and construction vehicles.
(6) Refinancing of existing debt.
(7) Business plans that are not developed as the primary source of support.
(8) A business endeavor that does not have an agency approved business plan.
(9) Any business activity related to the Marijuana business including the production, distribution and/or sale of marijuana products.
(10) DRS will not assist with the purchase of a franchise business or any type of pyramid business arrangement.
(11) The purchase of domestic animals or livestock.
(m) Purchases and support services. All Agency purchases for a plan with a goal of self-employment will be in accordance with established purchasing policy regarding the competitive bid process and referrals to the State Office Purchasing Unit. Any requests for assistance with maintenance or transportation will be required to meet established policy guidelines for these support services.

(n) The counselor will continue to be available for technical assistance upon completion of approved purchases. Counselor will review with client every 3 months the progress of the business. This will include copies of the businesses profit and loss statements and record of business performed. The purpose of these reviews is to determine if the involvement in self-employment is allowing the client to substantially increase his/her earnings to achieve self-employment success and be able to meet on-going financial obligations of the business. Should the business not be showing an increase in the income of the client, the counselor will review, with the client, the client's business plans to try to increase the business income. If necessary, the client may be referred to the small business development center or similar program for technical assistance in making changes in business operation to achieve a business profit.
(o) As stated in the IPE, this case would be agreed upon as a successful closure if the business is stable after 90 days and has met the specified level of performance. At the time of case closure, title for all goods purchased by the agency will be released to the client.
(p) As stated on the IPE the Counselor will discuss with the client at time of successful case closure that the client will be expected to furnish the Agency with income verification for the first year after successful case closure for reporting purposes as required under WIOA. This income verification can come in the form of self-employment worksheets signed and attested to by program participants or other approved Agency forms of verification.

612:10-7-232. Placement [AMENDED]
(a) Placement is the joint responsibility of the counselor and client. The counselor must start preparing the client for placement prior to completion of training or other employment related services.
(b) Job placement services may be provided by DRS counselors, job placement specialists employed by the agency, or through procurement of services from other ~~entities~~qualified contractors that offer job placement assistance. ~~In addition, the agency's Supported Employment (SE) and Employment and Retention (E&R) programsmake job placement services available throughcontracts withcertifiedvendors.~~Job development and placement services are available from qualified contractors through the Supplemental Employment Services (SES) contract.

PART 25. TRANSITION FROM SCHOOL TO WORK PROGRAM

612:10-7-240. Overview of transition from school to work services [AMENDED]
(a) Transition services is a coordinated set of activities for a student with a disability that promotes movement from the public schools to post-school activities. Transition services represent the next set of services on the continuum of VR services available to eligible individuals. Transition services, for eligible students with disabilities, provide for further development and pursuit of career interests with postsecondary education, vocational training, job search, job placement, job retention, job follow-up, and job follow along. The transition process is outcome based, leading to post-secondary education, vocational training, competitive integrated employment (including supplemental employment services and supported employment), continuing and adult education, adult services, independent living, and/or community participation consistent with the informed choice of the individual.
(b) The Transition from School to Work Program is implemented through a cooperative agreement between DRS and each participating local secondary school district, private school, charter school, home school organization and Career and Technology Education Center, through an MOU with the State Department of Education. The Transition Coordinator in DRS State Office acts as the liaison with the State Department of Education, and provides statewide coordination and technical assistance for the Transition from School to Work Program.
(c) Transition services must be based on the individual student's needs, taking into account the student's preferences and interests. Transition planning will include, to the extent needed, services in the areas of:
(1) instruction;
(2) community experiences;
(3) development of employment and other post-school adult living objectives, including job skill training available through vocational-technical schools;
(4) if appropriate, acquisition of daily living skills and a functional vocational evaluation;
(5) that promotes or facilitates the achievement of the employment outcome identified in the student's or youth's individualized plan for employment; and
(6) that includes outreach to and engagement of the parents, or, as appropriate, the representative of such a student or youth with a disability or other needs specific to the individual.
(7) supported employment services ~~can be initiated during the final graduating semester of high school~~, 34 CFR 361.5 (c) (54) (iii-v)~~.~~and supplemental employment services.

(d) The Transition from School to Work Program is based upon effective and cooperative working relationships between the Special Education Section of the State Department of Education, the Department of Rehabilitation Services, and the Local Educational Agency. Each agency retains responsibility for providing or purchasing any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

SUBCHAPTER 13. SPECIAL SERVICES FOR THE DEAF AND HARD OF HEARING

PART 3. CERTIFICATION OF INTERPRETERS

612:10-13-16. Evaluation [AMENDED]

(a) **Evaluation components and conditions.** An applicant must be 18 years old or older to be eligible to take the written examination and the skill-based performance evaluation. To be eligible to take the skill-based interpreter performance evaluation, an applicant should have earned at least 30 credit hours from an accredited college or university, with a cumulative GPA of 2.0 or higher or 60 hours of Continuing Education Units relating to interpreting. To be certified as an interpreter, an ~~individual~~applicant must pass a skill-based performance evaluation. The process for certification consists of a written examination and a sign language skill-based performance evaluation. The written examination and performance interview may include items from the NAD-RID Code of Professional Conduct and the Certification Levels limitations. Interpreters who hold Level III certification in either Interpreting or Transliterating are required to take the IV/V performance evaluation, which is in compliance with the Ethical Standards.

(b) **Written examination.** The written examination consists of questions designed to measure knowledge of interpreting and situational ethics. Applicants must make a passing score, as established by the program, before being allowed to take the performance evaluation. If the written test is failed, retesting may be taken again in 30 calendar days.

(c) **Performance Evaluation.** The Interpreter Certification and Resource Center (ICRC) administers two performance evaluations, certification levels for category I-III and certification levels for category IV/V. ~~The performance evaluation~~Both of the performance evaluation categories consists of ethical situational questions, which is called an interview, and a skill-based proficiency test, which will test the candidate's ability to interpret and transliterate interactive settings. Individuals may request testing for category levels I-III or category levels IV/V. A candidate is eligible to apply in the same performance category, I-III or IV-V, in ~~four~~three months from prior testing date. A performance application can be submitted before ~~four~~three months and will be placed on the next available evaluation date after the ~~four~~three months waiting period. If an interpreter obtains a level III in either transliterating or interpreting, he/she is immediately eligible to apply for the IV/V performance. Certification will be granted to an individual whose total score falls within the acceptable range for that level.

(d) **Conflict of interest.** Interpreter certification program staff who select, manage or coordinate the certification process or select evaluators are not eligible to test for Oklahoma interpreter certification through this process.

612:10-13-18. Fees [AMENDED]

(a) A fee will be charged to each applicant who applies for the written test and performance evaluation for state certification of an interpreter for the deaf. A yearly certification renewal fee will also be charged. Individuals failing to timely pay the renewal fee must submit a reinstatement fee and the annual certification renewal fee along with the application for reinstatement. The fee structure will be based on the cost of the evaluations, materials and certificate maintenance program.

(b) The fee for the written test is $50.00. The fee for performance evaluation is $125.00. The yearly certification renewal fee is $50.00. The certification reinstatement fee is $100. Out of state residents may take the ~~written/performance~~written test and interpreter skill-based performance for double the fee.

612:10-13-19. Refunds [AMENDED]

Fees paid for performance evaluations may be refunded, provided~~,~~ the request to cancel is submitted in writing at least ~~two weeks~~four weeks prior to the scheduled date of the performance evaluation. An applicant may request to reschedule the date of the performance evaluation ~~two~~three weeks prior to the confirmed scheduled date and may only be rescheduled once. A second request to reschedule will only be granted if documentation can be provided due to an uncontrolled situation. The new date must be within one year of the originally scheduled performance evaluation and must be before the certification level(s) expiration date or the fee is forfeited.

612:10-13-20. Certification maintenance [AMENDED]

(a) **General provisions for certification maintenance.** ~~QAST~~The interpreter certification in Interpreting and Transliterating, for levels I-V, are valid for a term of ~~two~~three years at which time the certification will expire unless the interpreter ~~retests~~takes the skill-based performance evaluation again, including paying the appropriate fee. The exception for re-testing applies to those that achieve a certification level in Transliterating: V and Interpreting: V; those are the only levels that will not be required to retest providing the annual CEUs and the annual renewal fee is satisfied.

(1) Level V certification: An interpreter holding a certification level V in either Transliterating or Interpreting, but not both, will be required to retest. Testing will include performance test that consists of the ethical situation interview, and only the ~~performance~~interactive section that the interpreter does not hold a level V in. The interpreter must pass the ethical situation interview with 80% before a level is granted. If a level V is not obtained, the interpreter will ~~be required to retest until a V/V is achieved~~ continue to follow the retesting process.

(2) Level I-IV certification: An interpreter with levels I, II, III, IV are required to take the 3 part performance evaluation that consists of the ethical situation interview, interactive Interpreting and interactive Transliterating. The interpreter must pass the ethical situation interview with at least an 80% before a level is granted.

(3) Certification will remain valid for an interpreter who has applied for evaluation and cannot be scheduled for testing prior to his/her certificate's expiration date, provided the application is received no later than ~~90~~160 calendar days before the expiration date. ~~However, any~~Any certification will lapse if ~~the~~any of the following occurs: annual renewal fee is not paid, ~~and/or~~ continuing education requirements are not met by stipulated due dates, and/or if the application is not submitted ~~90~~160 days before levels expire. Individuals who have allowed certification to lapse due to non-compliance with requirements must take and pass the ~~ICRC/QAST~~ written ~~portion~~test before they are eligible for the skill-based performance evaluation.

(4) An interpreter that holds only one ~~QAST~~ level V in either Interpreting or Transliterating, and holds a nationally recognized certification in good standing, such as, CI and CT or NIC, can be exempted from the requirement of retesting for the mode they do not have a level V in. The exemption is only valid providing the interpreter satisfies the annual ICRC CEUs by due date, the annual renewal fee by due date, and provides a current copy of their national certification card. If any of the stated requirements are not satisfied, the exemption is voided, and the interpreter will be required to take ~~QAST~~ to meet the V/V certification requirements.

(b) **Continuing education requirements.** QAST certified interpreters are required to satisfy one (10 hours) Continuing Education Unit (CEU) annually, with .1 (1 hour) of this in the category of Ethics. It is the interpreter's responsibility to ensure all supportive CEU documentation is submitted to the Interpreter Certification Resource Center (ICRC) staff before or on December 31st, to avoid certification becoming invalid. If certification becomes invalid, the individual must apply to test, and will be required to take and pass the written ICRC/QAST test before becoming eligible for the performance portion.

(c) **Certification renewal fee.** A certification renewal fee and renewal form are due by January 31st each year. The renewal form must be postmarked on or before January 31st to avoid certification becoming suspended.

(d) **Certification suspension and reinstatement**. If the certification renewal fee and renewal form are submitted after January 31st, the ~~interpreter~~interpreter's certification will become suspended~~.~~. ~~but~~An interpreter who's certification has become suspended has an option to make application for reinstatement. The reinstatement process includes the following: (1) The reinstatement application, (2) a $100 reinstatement fee, and (3) payment of the annual certification renewal fee, ~~will be required for reinstatement~~with the renewal form. The reinstatement ~~fee and certification renewal fee are due before or on February 28th to avoid certification becoming invalid~~process must be submitted on or before February 28th to avoid certification becoming invalid. If certification becomes invalid, the individual must ~~apply to test, must~~ take and pass the written ~~ICRC/QAST~~ test before becoming eligible for the skill-based performance ~~portion~~evaluation.

(e) **Expiration of certification.** If an interpreter does not submit an application and appropriate fee for testing ~~90~~160 days prior to the level(s) expiration date, the interpreter's certification level(s) will be considered invalid on the expiration date. If level(s) become invalid, the individual ~~must apply to test,~~ must take and pass the ~~ICRC/QAST~~sign language interpreter written test before becoming eligible for the skill-based performance ~~portion~~evaluation. If an interpreter's certification becomes invalid twice consecutively ~~in a four (4) year period~~ due to non-compliance with either, the CEU or annual renewal fee requirements, the interpreter will not be allowed to take the written ~~portion~~test or the skill-based performance ~~portion~~evaluation ~~of the ICRC/QAST test~~ until one (1) year from the date of the second documented non-compliance.

(f) **Modification of requirements.** Requirements for certification renewal of any level may be changed or modified by future amendments to this section or the rules of this subchapter.

612:10-13-24. Interpreter certification program advisory committee and interpreter quality committee [AMENDED]

(a) An Oklahoma interpreter certification program advisory committee shall serve in an advisory capacity to provide expert assistance in maintaining the integrity of the Oklahoma interpreter certification performance and overall testing system. The committee will communicate the needs and concerns of the interpreting community ~~in regard to~~regarding the interpreter certification performance process ~~as well as~~and convey current industry standards for the best business practice for the interpreting profession. The advisory committee does not have formal authority to govern and cannot issue directives which must be followed. Rather, the advisory committee serves to make recommendations and/or provide key information, experiences, and suggestions for the betterment of the interpreter certification performance and overall testing system. It is imperative the advisory committee members demonstrate knowledge, expertise, and an understanding of the dynamics of the interpreter certification skill-based performance and overall testing system. Advisory committee members are also bound by confidentiality in safeguarding the integrity of the performance/testing system. The Oklahoma interpreter certification program advisory committee ~~shall also~~may participate in selecting a grievance ~~board~~panel ~~members~~ member(s) providing there is no conflict in any parties involved.
(b) ~~The Oklahoma interpreter certification program advisory committee shall consist of those individuals as defined by 612:10-13-17~~The Oklahoma interpreter certification program advisory committee members shall be selected according to the qualifications: hearing interpreter must have either an ICRC level V/V or a national recognized interpreter certification and must be bilingual in ASL and English. The selection of the Deaf or hard of hearing members should hold a nationally recognized certification and must be bilingual in ASL and English. The members should be a current or former ICRC performance/testing evaluator, which is defined by 612:10-13-17.
(c) Oklahoma interpreter certification program advisory committee members may be nominated by others that are familiar with the interpreting field and will be chosen from a pool of qualified applicants that meets the qualifications set forth in 612:10-13-17. The qualified, nominated applications will be selected by the Department of Rehabilitation Services. The selection of qualified members should be from various sectors that serve the interpreting and Deaf/hard of hearing communities that may include educational, community interpreter, interpreter referral agency, professional agency, and/or professional organization. Members serve terms of two years, and may serve consecutive terms up to five years or longer if there are no other qualified individuals. Meetings will be held at least once annually, or as needed.
(d) Oklahoma interpreter certification program can host an interpreter quality committee that will serve to bring insight to the interpreter certification program (ICRC) regarding the basic needs from the interpreting profession. The interpreter quality committee does not have formal authority to govern and cannot issue directives which must be followed. Rather, the interpreter quality committee serves to make recommendations and/or provide key information, experiences, and suggestions for the betterment of the interpreter certification program.
(e) The quality committee members can be nominated from the interpreting community and the Deaf/Hard of Hearing community and serve on the committee for a term of two (2) years and may serve consecutive terms up to four (4) years. Meetings will be held at least twice annually, or as needed.

[OAR Docket #24-756; filed 7-8-24]

TITLE 660. DEPARTMENT OF SECURITIES
CHAPTER 11. OKLAHOMA UNIFORM SECURITIES ACT OF 2004

[OAR Docket #24-754]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Broker-Dealers and Agents
Part 1. GENERAL PROVISIONS
660:11-5-2. Definitions [AMENDED]
Part 3. LICENSING PROCEDURES
660:11-5-16. Examination requirements for agents and for principals of non-FINRA member broker-dealers [AMENDED]
660:11-5-26. Merger and acquisition broker exemption [AMENDED]
Part 7. RECORD KEEPING AND ETHICAL STANDARDS
660:11-5-42.1. ~~Standards of ethical practices--~~Dishonest and unethical practices of issuer agents [AMENDED]
Subchapter 7. Investment Advisers and Investment Adviser Representatives
Part 3. LICENSING PROCEDURES

660:11-7-11. Initial registration [AMENDED]
660:11-7-13. Examination requirements for investment adviser representatives [AMENDED]
660:11-7-21. Errors and omissions coverage [AMENDED]
Part 5. REPORTING REQUIREMENTS
660:11-7-31. Post-registration reporting requirements [AMENDED]
Part 7. RECORD KEEPING AND ETHICAL STANDARDS
660:11-7-42. Dishonest and unethical practices of investment advisers and investment adviser representatives [AMENDED]
Subchapter 9. Registration of Securities
Part 5. GUIDELINES AND POLICIES APPLICABLE TO OFFERINGS OF REGISTERED SECURITIES
660:11-9-34. ~~NASAA~~ Application of NASAA Statements of Policy and guidelines [AMENDED]
Subchapter 11. Exemptions From Securities Registration
Part 1. GENERAL PROVISIONS
660:11-11-5. Application of NASAA Statements of Policy and guidelines [NEW]
Part 3. EXEMPT SECURITIES
660:11-11-21. Not for profit debt securities notice filing [AMENDED]
Part 5. EXEMPT TRANSACTIONS
660:11-11-42. ~~Interpretation of "existing security holders"~~Existing securities holders exemption [AMENDED]
660:11-11-54. Intrastate offering exemption [AMENDED]

AUTHORITY:
Administrator, Oklahoma Department of Securities; 71 O.S. §§1-605, 1-608
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 20, 2023
COMMENT PERIOD:
January 16, 2024 through February 16, 2024
PUBLIC HEARING:
February 22, 2024
ADOPTION:
February 29, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 29, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 15, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
Rule 206(4)-1 under the Investment Advisers Act of 1940 (17 CFR § 275.206(4)-1), adopted March 5, 2021, and effective May 4, 2021 (known informally as the SEC Marketing Rule).
INCORPORATING RULES:
660:11-7-42(b)(13)

AVAILABILITY:

The incorporated standards are available for public examination between 8:30 a.m. and 4:30 p.m. at the offices of the Oklahoma Department of Securities located at 204 North Robinson Avenue, Oklahoma City, Oklahoma, 73102.

GIST/ANALYSIS:

The new rule and rule amendments clarify examination requirements for agents and investment adviser representatives, require investment advisers to register a natural person as an investment adviser representative, allow agents and investment adviser representatives to maintain the validity of their state examinations for up to five years under certain conditions, remove the attestation requirement for investment advisers required to submit proof of errors and omissions coverage and adjust the timeline for submission, clarify dishonest and unethical practices of issuer agents, conform investment adviser regulations relating to dishonest and unethical practices to model rules and federal law and clarify that changes in federal law relating to advertising are applicable to state-registered investment advisers and investment adviser representatives, clarify that the Department may require compliance with NASAA guidelines and Statements of Policy in connection with the review of securities registrations and exemption filings, clarify the filing requirements for the exemption from registration for transactions with existing securities holders, correct statutory cites and terminology, and clarify existing law and changing regulatory procedures.

CONTACT PERSON:

Gerri Kavanaugh, General Counsel, Oklahoma Department of Securities, (405) 280-7721

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 15, 2024:

SUBCHAPTER 5. BROKER-DEALERS AND AGENTS

PART 1. GENERAL PROVISIONS

660:11-5-2. Definitions [AMENDED]

In addition to the terms defined in 660:11-1-3, the following words and terms when used in this subchapter shall have the following meaning, unless the context clearly indicates otherwise or the words or terms are defined in another Section:

"Branch office" means any location where one or more associated persons of a ~~member~~broker-dealer regularly conducts the business of effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security, or is held out as such, excluding:

(A) Any location that is established solely for customer service or back office type functions where no sales activities are conducted and that is not held out to the public as a branch office;

(B) Any location that is the associated person's primary residence; provided that:

(i) Only one associated person, or multiple associated persons who reside at that location and are members of the same immediate family, conduct business at the location;

(ii) The location is not held out to the public as an office and the associated person does not meet with customers at the location;

(iii) Neither customer funds nor securities are handled at that location;

(iv) The associated person is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, retail communications, and other communications to the public by such associated person;

(v) The associated person's correspondence and communications with the public are subject to the firm's supervision;

(vi) Electronic communications (e.g., e-mail) are made through the ~~member's~~broker-dealer's electronic system;

(vii) All orders are entered through the designated branch office or an electronic system established by the ~~member~~broker-dealer that is reviewable at the branch office;

(viii) Written supervisory procedures pertaining to supervision of sales activities conducted at the residence are maintained by the ~~member~~broker-dealer; and

(ix) A list of the residence locations is maintained by the ~~member~~broker-dealer;

(C) Any location, other than a primary residence, that is used for securities business for less than 30 business days in any one calendar year, provided the ~~member~~broker-dealer complies with the provisions of subparagraphs ~~(B)(a)~~(B)(i) through ~~(h)~~(viii) above;

(D) Any office of convenience, where associated persons occasionally and exclusively by appointment meet with customers, which is not held out to the public as an office;

(E) Any location that is used primarily to engage in non-securities activities and from which the associated person(s) effects no more than 25 securities transactions in any one calendar year; provided that any retail communication identifying such location also sets forth the address and telephone number of the location from which the associated person(s) conducting business at the non-branch locations are directly supervised;

(F) The floor of a registered national securities exchange where a ~~member~~broker-dealer conducts a direct access business with public customers; or

(G) A temporary location established in response to the implementation of a business continuity plan.

"Complaint" means and includes any written statement of a customer or any person acting on behalf of a customer alleging a grievance involving the activities of those persons under the control of the broker-dealer in connection with the solicitation or execution of any transaction or the disposition of securities or funds of that customer.

"Completion of the transaction" means:

(A) In the case of a customer who purchases a security through or from a broker-dealer, except as provided in (B), the time when such customer pays the broker-dealer any part of the purchase price, or, if payment is effected by bookkeeping entry, the time when such bookkeeping entry is made by the broker-dealer for any part of the purchase price;

(B) In the case of a customer who purchases a security through or from a broker-dealer and who makes payments therefor prior to the time when payment is requested or notification is given that payment is due, the time when such broker-dealer delivers the security to or into the account of such customer;

(C) In the case of a customer who sells a security through or to a broker-dealer, except as provided in (D), if any security is not in the custody of the broker-dealer at the time of sale, the time when the security is delivered to the broker-dealer, and if the security is in the custody of the broker-dealer at the time of sale, the time when the broker-dealer transfers the security from the account of such customer;

(D) In the case of a customer who sells a security through or to a broker-dealer and who delivers such security to such broker-dealer prior to the time when delivery is requested or notification is given that delivery is due, the time when such broker-dealer makes payment to or into the account of such customer.

"Control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any person is presumed to control a company that:

(A) is a director, general partner, or officer exercising executive responsibility or having similar status or functions;

(B) directly or indirectly has the right to vote 25% or more of a class of a voting security or has the power to sell or direct the sale of 25% or more of a class of voting securities; or

(C) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 25% or more of the capital.

"Customer" means any person who, in the regular course of a broker-dealer's business, has cash or securities in the possession of such broker-dealer. "Customer" shall not include a broker-dealer.

"Direct participation programs" mean programs which provide for flow-through tax consequences regardless of the structure of the legal entity or vehicle for distribution including, but not limited to, oil and gas programs, real estate programs, agricultural programs, cattle programs, condominium securities, Subchapter S corporate offerings, and all other programs of a similar nature, regardless of the industry represented by the program, or any combination thereof; excluded from this definition are real estate investment trusts, tax qualified pension and profit sharing plans pursuant to Sections 401 and 403(a) of the Internal Revenue Code and individual retirement plans Section 408 of that code, tax sheltered annuities pursuant to the provisions of Section 403(b) of the Internal Revenue Code and any company including separate accounts registered pursuant to the 1940 Act.

"Independent investment adviser" means an investment adviser that is not controlled by, does not control, and is not under common control with a broker-dealer.

"Investment company and variable contracts products" means:

(A) redeemable securities of companies registered pursuant to the 1940 Act;

(B) securities of closed-end companies registered pursuant to the 1940 Act during the period of original distribution only; and

(C) variable contracts and insurance premium funding programs and other contracts issued by an insurance company except contracts which are exempt securities pursuant to Section 3(a)(8) of the 1933 Act.

"Issuer agent" means an agent whose activities in the securities business are limited solely to effecting transactions for the benefit of an issuer or issuers as that term is defined in Section 1-102.19 of the Securities Act.

"Municipal securities" mean securities which are direct obligations of, or obligations guaranteed as to principal or interest by, a state or any political subdivision thereof, or any agency or instrumentality of a state or any political subdivision thereof, or any municipal corporate instrumentality of one of more states, or any security which is an industrial development bond as defined in Section 3(a)(29) of the 1934 Act.

"Nonbranch sales office" means any business location of the broker-dealer identified to the public or customers by any means as a location at which a securities business is conducted on behalf of the broker-dealer which location is identified solely in a telephone directory line listing or on a business card or letterhead, which listing, card, or letterhead also sets forth the address and telephone number of the office of the broker-dealer responsible for supervising the activities of the identified location.

"Office" means any location where a broker-dealer and/or one or more of its agents regularly conduct the business of handling funds or securities or effecting any transactions in, or inducing or attempting to induce the purchase or sale, of any security.

"Option" means any put, call, straddle, or other option or privilege, which is a "security" as defined in ~~Section 2(1) of the 1933 Act~~Section 1-102(32) of the Securities Act~~, as amended,~~ but shall not include any tender offer, registered warrant, right, convertible security, or any other option in respect to which the writer is the issuer of the security which may be purchased or sold upon the exercise of the option.

"OSJ" or **"Office of supervisory jurisdiction"** means any office designated as directly responsible for the review of the activities of registered agents or associated persons in such office and/or in other offices of the broker-dealer. An office of supervisory jurisdiction would be any business location of a broker-dealer at which one or more of the following functions take place:

(A) order execution and/or market making;
(B) structuring of public offerings or private placements;
(C) maintaining custody of customers' funds and/or securities;
(D) final acceptance (approval) of new accounts on behalf of the broker-dealer;
(E) review and endorsement of customer orders pursuant to 660:11-5-42;
(F) final approval of advertising or sales literature for use by agents of the broker-dealer;
(G) responsibility for supervising the activities of persons associated with the broker-dealer at one or more other offices of the broker-dealer.

"Principal" means:

(A) any individual registered with a registered national securities association as a principal or branch manager of a member, broker or dealer, or any other person who has been delegated supervisory responsibility for the firm or its associated persons; or
(B) any person associated with a non-FINRA applicant for registration as a broker-dealer who is or will be actively engaged in the management of the applicant's securities business, including supervision, solicitation, conduct of business or training of persons associated with an applicant for any of these functions, and is designated as a principal by the broker-dealer applicant.

"Public offering price" shall mean the price at which the security involved was offered to the public as set forth in the prospectus of the issuing company.

"Selling group" means any group formed in connection with a public offering, to distribute all or part of an issue of securities by sales made directly to the public by or through members of such selling group, under an agreement which imposes no financial commitment on the members of such group to purchase any such securities except as they may individually or collectively elect to do so.

"Selling syndicate" means any syndicate formed in connection with a public offering, to distribute all or part of an issue of securities by others or sales made directly to the public by or through participants in such syndicate under an agreement which imposes a financial commitment upon the participants in such syndicate to purchase any of such securities.

"Undertaking for Participation in the NASAA/CRD Temporary Agent Transfer Program" means the document entitled "Broker-Dealer Undertaking for Participation in the NASAA/CRD Temporary Agent Transfer Program" which the employing broker-dealer has executed and filed with the CRD.

PART 3. LICENSING PROCEDURES

660:11-5-16. Examination requirements for agents and for principals of non-FINRA member broker-dealers [AMENDED]

(a) **Examination ~~requirement~~requirements.** Proof of compliance with the examination requirements of this Section is prerequisite to a complete filing for registration under the Securities Act.

(b) ~~**Examination.**~~**Examinations for agents of a broker-dealer.**~~Each applicant for registration as a broker-dealer agent, issuer agent, or principal of a non-FINRA member broker-dealershall, unless covered by subsection (g), have passedwithin four (4) years of the date of application the Securities Industry Essentials examination (SIE) and within two (2) years of the date of application the other applicable examinations for the desired category of registration as set forth in subsection (d) or (e). The examinations shall consist of a qualification examination(s) applicable to the category of registration applied for and a uniform state law examination. The Administrator adopts the examinations administered by FINRA as applicable to each individual registrant by category of registration as the required examinations.~~Each applicant for registration as an agent of a broker-dealer shall, unless covered by (f) of this Section or otherwise waived by the Administrator, have passed, within two years of the date of application:

(1) the Series 63/Uniform Securities Agent State Law Examination (Series 63) or the Series 66/Uniform Combined State Law Examination (Series 66); and

(2) all relevant examinations required by FINRA and accepted by the Administrator.

(c) **Limitations on licenses.** The activities of each person registered as an agent of a broker-dealer are limited to the ~~corresponding category~~categories for which they are qualified by examination, unless waived, ~~and for which they are registered under the Securities Act~~as set forth on the Form U4.

(d) ~~**Examination categories.** Examination categories for agents are as follows~~**Examinations for agents of issuers.** Each applicant for registration as an agent of an issuer, shall, unless waived by the Administrator, have passed, within two years of the date of application:

~~(1) General securities or government securities - FINRA Members: - SIE; Series 7; and Series 63 or 66~~

~~(2) General securities - Non-FINRA Members/Issuers - SIE; Series 7; and Series 63 or 66~~

~~(3) Investment company and variable contract products - SIE; Series 6; and Series 63 or 66~~

~~(4) Direct participation programs - SIE; Series 22; and Series 63 or 66~~

~~(5) Municipal securities - Series 7; Series 52; and Series 63 or 66~~

~~(6) Investment banking representative - SIE; Series 79; and Series 63 or 66~~

~~(7) Securities Trader - SIE; Series 57; and Series 63 or 66~~

~~(8) Limited Representative - Private Securities Offerings - SIE: Series 82; and Series 63 or 66~~

~~(9) Research Analyst - SIE; Series 86; Series 87; and Series 63 or 66~~

~~(10) Operations Professional - SIE; Series 99; and Series 63 or 66~~

(1) the Series 63 or the Series 66; and

(2) the Series 7/General Securities Representative Examination (Series 7).

(e) ~~**Examination categories**~~**Examinations for principals of non-FINRA member broker-dealers.**~~Examination categories~~Each applicant for registration as a ~~for principals~~ principal of a non-FINRA member ~~broker-dealers~~broker-dealer, ~~are as follows - Series 7; Series 24; and Series 63 or 66~~shall, unless waived by the Administrator, have passed, within two years of the date of the application:

(1) the Series 63 or the Series 66:

(2) the Series 24/General Securities Principal Examination (Series 24); and

(3) the Series 7.

(f) ~~**Change in series number.** Should FINRA examination series numbers change, the most current examination series applicable to the category of registration shall apply.~~

~~(g)~~ **Validity of prior examination scores.**

(1) Any individual who has been registered as an agent in any state within two years from the date of filing an application for registration shall not be required to retake the required examinations to be eligible for registration.

(2) Any individual who has not been registered as an agent in any state for more than two years but less than five years, who has elected to participate in the FINRA Maintaining Qualifications Program pursuant to FINRA Rule 1240(c), and whose appropriate FINRA qualifying examinations remain valid pursuant to effective participation in the FINRA Maintaining Qualifications Program shall be deemed in compliance with the examination requirements ~~for the FINRA qualifying examination; provided, however, that participation in the FINRA Maintaining Qualifications Program shall not extend the Series 63 or Series 66 for purposes of agent registration~~of (b)(1) this Section as long as the individual elects to participate in the NASAA Examination Validity Extension Program within two years of agent registration termination.

(3) Any individual who has not been registered as an agent in any state for more than two years but less than five years, who has elected to participate in the FINRA Maintaining Qualifications Program pursuant to FINRA Rule 1240(c), and whose appropriate FINRA qualifying examinations remain valid pursuant to effective participation in the FINRA Maintaining Qualifications program, shall be deemed in compliance with the examination requirements of (b)(2) of this Section.

(4) Successful participation in the FINRA Maintaining Qualifications Program shall not extend the Series 63, Series 65, or Series 66 for purposes of investment adviser representative registration.

(g) **Waiver of examination requirement.** The Administrator may waive the examination requirements on a case-by-case basis when such action is determined to be consistent with the purposes fairly intended by the policy and provisions of the Securities Act. Requests for waivers shall be in writing setting forth the justifications therefor.

660:11-5-26. Merger and acquisition broker exemption [AMENDED]

(a) **Definitions.** For purposes of this Section:

(1) **"Control"** means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. There is a presumption of control for any person who:

(A) is a director, general partner, member, or manager of a limited liability company, or officer exercising executive responsibility (or has similar status or functions);

(B) has the right to vote 20 percent or more of a class of voting securities or the power to sell or direct the sale of 20 percent or more of a class of voting securities; or

(C) in the case of a partnership or limited liability company, has the right to receive upon dissolution, or has contributed, 20 percent or more of the capital~~; or~~.

(2) **"Eligible privately held company"** means a company meeting both of the following conditions:

(A) The company does not have any class of securities registered, or required to be registered with the SEC under Section 12 of the 1934 Act, 15 U.S.C. ~~781~~78*l*, or with respect to which the company files, or is required to file, periodic information, documents, and reports under subsection 15(d) of the 1934 Act, 15 U.S.C. 78o(d).

(B) In the fiscal year ending immediately before the fiscal year in which the services of the Merger and Acquisition Broker are initially engaged with respect to the securities transaction, the company meets either or both of the following conditions (determined in accordance with the historical financial accounting records of the company):

(i) The earnings of the company before interest, taxes, depreciation, and amortization are less than $25,000,000.

(ii) The gross revenues of the company are less than $250,000,000.

(3) **"Merger and Acquisition Broker"** means any broker-dealer and any person associated with a broker-dealer engaged in the business of effecting securities transactions solely in connection with the transfer of ownership of an eligible privately held company, regardless of whether that broker-dealer acts on behalf of a seller or buyer, through the purchase, sale, exchange, issuance, repurchase, or redemption of, or a business combination involving, securities, or assets of the eligible privately held company~~.~~:

(A) if the broker-dealer reasonably believes that upon consummation of the transaction, any person acquiring securities or assets of the eligible privately held company, acting alone or in concert, will control and, directly or indirectly, will be active in the management of the eligible privately held company or the business conducted with the assets of the eligible privately held company~~.~~; and

(B) if any person is offered securities in exchange for securities or assets of the eligible privately held company, such person will, prior to becoming legally bound to consummate the transaction, receive or have reasonable access to the most recent fiscal year-end financial statements of the issuer of the securities as customarily prepared by its management in the normal course of operations, and, if the financial ~~statement~~statements of the issuer are audited, reviewed, or compiled, any related statement by the independent accountant~~.~~; a balance sheet dated not more than 120 days before the date of the exchange offer~~.~~; ~~an~~and information pertaining to the management, business, results of operation for the period covered by the foregoing financial statements, and any material loss contingencies of the issuer.

(C) A merger and acquisition broker may receive transaction-based or other compensation, as agreed by the parties.

(4) **"Public shell company"** means a company that at the time of a transaction with an eligible privately held company:

(A) has any class of securities registered, or required to be registered, with the SEC under Section 12 of the 1934 Act, 15 U.S.C. ~~781~~78*l*, or with respect to which the company files, or is required to file, periodic information, document, and reports under subsection 15(d) of the 1934 Act, 15 U.S.C. 78o(d); and

(B) has no or nominal operations; and

(C) has:

(i) no or nominal assets:

(ii) assets consisting solely of cash and cash equivalents; or

(iii) assets consisting of any amount of cash and cash equivalents and nominal other assets.

(b) **Inflation adjustment.**~~On the date that is five years after the date of the enactment of this Section, and every five years thereafter, each dollar amount in subparagraph (a)(2)(B) shall be adjusted by:~~

(1) On the date that is five years after the date of the enactment of this Section, and every five years thereafter, each dollar amount in subparagraph (a)(2)(B) shall be adjusted by:

~~(1)~~(A) dividing the annual value of the Employment Cost Index for Wages and Salaries, Private Industry Workers (or any successor index), as published by the Bureau of Labor Statistics, for the calendar year preceding the calendar year in which the adjustment is being made by the annual value of such index (or successor) for the calendar year ending December 31, 2020; and

~~(2)~~(B) multiplying such dollar amount by the quotient obtained under ~~(i) of this subsection~~(A).

~~(3)~~(2) ~~Rounding -~~ Each dollar amount determined under (i) of this subsection shall be rounded to the nearest multiple of $100,000.

(c) **Exemption.** Except as provided in ~~paragraphs~~ (d) and (e) of this Section, a Merger and Acquisition Broker shall be exempt from registration as a broker-dealer under this Section.

(d) **Excluded Activities.** A merger and acquisition broker is not exempt from registration under this paragraph if such broker-dealer does any of the following:

(1) Directly or indirectly, in connection with the transfer of ownership of an eligible privately held company, receives, holds, transmits, or has custody of the funds or securities to be exchanged by the parties to the transaction.

(2) Engages on behalf of an issuer in a public offering of any class of securities that is registered, or required to be registered, with the SEC under Section 12 of the 1934 Act, 15 U.S.C. ~~781~~78*l* or with respect to which the issuer files, or is required to file, periodic information, documents, and reports under subsection 15(d) of the 1934 Act, 15 U.S.C. 78o(d).

(3) Engages on behalf of any party in a transaction involving a public shell company.

(e) **Disqualifications.** A merger and acquisition broker is not exempt from registration under this paragraph if such broker-dealer is subject to:

(1) Suspension or revocation of registration under paragraph 15(b)(4) of the 1934 Act, 15 U.S.C. 78o(b)(4);

(2) A statutory disqualification described in paragraph 3(a)(39) of the 1934 Act, 15 U.S.C. 78c(a)(39);

(3) A disqualification under the rules adopted by the SEC under Section 926 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (~~15 U.S.C. 77d~~Rule 506(d) of Regulation D under the 1933 Act); or

(4) A final order described in subparagraph (4)(H) of Section 15(b) of the 1934 Act, 15 U.S.C. 78o(b)(4)(H).

PART 7. RECORD KEEPING AND ETHICAL STANDARDS

660:11-5-42.1. ~~Standards of ethical practices--~~Dishonest and unethical practices of issuer agents [AMENDED]

(a) **Purpose.** This rule is intended to set forth the standards of ethical practices for issuer agents. Any noncompliance with the standards of ethical practices specified in this section will constitute unethical practices in the securities business; however, the following is not intended to be a comprehensive listing of all specific events or conditions that may constitute such unethical practices. The standards shall be interpreted in such manner as will aid in effectuating the policy and provisions of the Securities Act, and so as to require that all practices of issuer agents, in connection with their activities in this state shall be just, reasonable and not unfairly discriminatory.

(b) **Standards.**

(1) An issuer agent, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade. Issuer agents shall not violate any federal securities statute or rule or any rule of a national securities exchange or national securities association of which he is a member with respect to any customer, transaction or business effected in this state.

(2) In recommending to a customer the purchase, sale or exchange of any security, an issuer agent shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs. Prior to making a recommendation to a customer an issuer agent shall also make reasonable efforts to obtain information concerning the customer's financial background, tax status, ~~and~~ investment objectives, and such other information used or considered to be reasonable and necessary by such registered agent in making such recommendation.
(3) No issuer agent shall guarantee a customer against loss in any securities transaction effected by the issuer agent with such customer.
(4) No issuer agent shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive, or other fraudulent device, paractice, program, design, or contrivance.
(5) No issuer agent shall fail or refuse to furnish a customer, upon reasonable request, information to which the customer is entitled, or to respond to a formal written request or complaint.

SUBCHAPTER 7. INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

PART 3. LICENSING PROCEDURES

660:11-7-11. Initial registration [AMENDED]

(a) **Investment adviser.** Investment advisers applying for initial registration pursuant to Section 1-406 of the Securities Act:

(1) shall file with the IARD:
(A) fully completed Parts I and II of Form ADV;
(B) a Form BR for each office located within the state of Oklahoma, and if the investment adviser's principal office is located in Oklahoma, all offices located elsewhere; and
(C) the filing fee specified in Section 1-612 of the Securities Act;

(2) shall file with the Department:
(A) financial statements as required by 660:11-7-44 unless exempt therefrom;
(B) a copy of each form of investment advisory contract to be executed by Oklahoma clients and if the principal office of the investment adviser is located in Oklahoma, a copy of each form of investment advisory contract to be executed by any other clients;
(C) prior to the effective date of registration, proof that the applicant maintains an errors and omissions insurance policy in the amount of at least $1 million per claim ~~form~~from an insurer authorized to transact insurance in the state of Oklahoma or from any other insurer approved by the Administrator according to standards established by 660:11-7-21; and
(D) any additional documentation, supplemental forms, and information as the Administrator may deem necessary; ~~and~~

(3) if a natural person, must have passed the applicable examinations specified in 660:11-7-13~~.~~; and
(4) if not a natural person, must have a natural person who has filed a Form U4 to apply for registration as an investment adviser representative of the investment adviser and has completed the necessary registration and examination requirements. The investment adviser shall not commence operations in this state until it has an investment adviser representative registered under the Securities Act.

(b) **Investment adviser representative.** Investment adviser representatives applying for initial registration under the Securities Act:

(1) shall file with the CRD:
(A) a completed or updated Form U-4;
(B) the filing fee specified in Section 1-612 of the Securities Act;
(C) proof of applicant's approved status of registration or licensure in a jurisdiction in which he has an office of employment where such registration is required; and
(D) any additional documentation, supplemental forms, and information as the Administrator may deem necessary;

(2) must have passed the applicable examinations specified in 660:11-7-13.

660:11-7-13. Examination requirements for investment adviser representatives [AMENDED]

(a) **Examination ~~requirement~~requirements.** Proof of compliance with the written examination requirements of this Section is prerequisite to a complete filing for registration under the Securities Act.
(b) **Examinations.** Every natural person seeking registration as an investment adviser or investment adviser representative shall, unless covered by ~~subsection~~ (c) or (e) of this Section or otherwise waived by the Administrator, have passed:
(1) the Series 65/Uniform Investment Adviser Law Examination (Series 65) within two years of the date of application; or
(2) the Series 66/Uniform Combined State Law Examination (Series 66) and the FINRA Series 7/General Securities Representative Examination (Series 7) within two years of the date of application, and
(3) the Securities Industry Essential Examination within four years of the date of application.
(c) **Designations acceptable in lieu of examinations.** Compliance with the examination requirements is waived if the applicant has been awarded any of the following designations and at the time of filing an application the designation is current and in good standing:
(1) Certified Financial Planner ("CFP") awarded by the Certified Financial Planners Board of Standards;
(2) Chartered Financial Consultant ("ChFC") or Masters of Science and Financial Services ("MSFS") awarded by the American College, Bryn Mawr, Pennsylvania;
(3) Chartered Financial Analyst ("CFA") awarded by the Institute of Chartered Financial Analysts;
(4) Personal Financial Specialist ("PFS") awarded by the American Institute of Certified Public Accountants;
(5) Chartered Investment Counselor ("CIC") awarded by the Investment Adviser Association; or
(6) Any further certificates or credentials that are placed on the NASAA 65 Equivalency List, as maintained and updated by NASAA and the NASAA Exams Advisory Committee.
(d) **Change in series number.** Should FINRA examination series numbers change, the most current examination series applicable to the category of registration shall apply.
(e) **Validity of prior examination scores.**
(1) Any individual who has been registered as an investment adviser representative in any state within two years from the date of filing an application for registration under the Securities Act shall not be required to retake the examinations to be eligible for registration.
(2) Any individual who is not registered as an investment adviser representative in any state for more than two years but less than five years, who has elected to participate in the FINRA Maintaining Qualifications Program pursuant to FINRA Rule 1240(c), and whose appropriate FINRA qualifying examinations remain valid pursuant to effective participation in the FINRA Maintaining Qualifications Program shall not have to retake the appropriate FINRA qualifying examinations to comply with the examination requirements of (b)(2) of this Section; provided, however, that successful participation in the FINRA Maintaining Qualifications Program shall not extend the Series 65 or the Series 66 for purposes of investment adviser representative registration.
(3) An individual who terminates their registration as an investment adviser representative may maintain the validity of their Series 65 or the investment adviser portion of the Series 66, as applicable, without being employed by or associated with an investment adviser or federal covered investment adviser for a maximum of five years following the termination of the effectivenss of the investment adviser representative registration if the individual meets all of the following:
(A) the individual previously took and passed the examination for which they seek to maintain validity under this Section;
(B) the individual was registered as an investment adviser representative for at least one year immediately preceding the termination of the investment adviser representative's registration;
(C) the individual was not subject to a statutory disqualification as defined in Section 3(a)(39) of the 1934 Act while registered as an investment adviser representative or at any period after termination of the registration;
(D) the person elects to participate in the Exam Validity Extension Program ("EVEP") under this paragraph within two years from the effective date of the termination of the investment adviser representative's registration;
(E) the individual does not have a deficiency under the investment adviser representative continuing education program at the time the investment adviser representative's registration becomes ineffective;
(F) the person completes annually on or before December 31 of each calendar year in which the person participates in EVEP:
(i) six (6) continuing education credits of IAR Ethics and Professional Responsibility Content, as defined in 660:11-7-49, offered by an authorized provider, including at least three (3) hours covering the topic of ethics; and

(ii) six (6) continuing education credits of IAR Products and Practice Content, as defined in 660:11-7-49, offered by an authorized provider;

(G) An individual who elects to participate in EVEP is required to complete the continuing education credits required by (F) for each calendar year that elapses after the individual's investment adviser representative registration became ineffective regardless of when the individual elects to participate in EVEP; and

(H) An individual who complies with the FINRA Maintaining Qualification Program under FINRA Rule 1240(c) shall be considered in compliance with (F)(ii).

(f) **Waiver of examination requirement.** The Administrator may waive the examination requirement on a case-by-case basis when such action is determined to be consistent with the purposes fairly intended by the policy and provisions of the Securities Act. Requests for waivers shall be in writing setting forth the justifications therefor.

660:11-7-21. Errors and omissions coverage [AMENDED]

(a) Every investment adviser who is required to maintain an errors and omissions insurance policy under 660:11-7-11 must submit proof of an errors and omissions insurance policy to the Department as a condition of registration.

(b) Every investment adviser registered under Section 1-406 of the Securities Act must submit proof of an errors and omissions insurance policy annually as set forth in 660:11-7-31.

(c) For purposes of compliance with 660:11-7-11 and 660:11-7-31, proof of insurance may be demonstrated by submitting to the Department ~~an attestation of compliance on a form available on the Department's website and~~ a policy declaration page or a certificate of liability coverage specifying errors and omissions coverage.

(1) For purposes of compliance with this Section, 660:11-7-11, and 660:11-7-31, a policy may not contain exclusions for investment management and advisory services performed in this state on behalf of the investment adviser or for persons performing investment management and advisory services in this state on behalf of the investment adviser unless the investment adviser and its representatives refrain from performing the excluded investment management and advisory services and disclose the limitations in the investment adviser's Form ADV Part 2A.

(2) The requirements for this insurance may be fulfilled by a policy provided through membership in a professional association so long as the requirements are otherwise met, or at the discretion of the Administrator.

(3) The requirements for this insurance may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(d) For purposes of this rule, policies written by admitted or authorized insurers, registered surplus lines insurers, and registered risk retention and purchasing groups will satisfy the errors and omissions requirement of 660:11-7-11 and 660:11-7-31.

(e) Every investment adviser registered under Section 1-406 of the Securities Act shall immediately notify the Department in writing if its errors and omissions insurance policy is cancelled, terminated, or substantially modified.

PART 5. REPORTING REQUIREMENTS

660:11-7-31. Post-registration reporting requirements [AMENDED]

(a) **Form ADV amendments.** Every investment adviser registered under Section 1-406 of the Securities Act must amend its Form ADV each year by filing an annual updating amendment within 90 days of the end of its fiscal year. In addition, every investment adviser registered under Section 1-406 of the Securities Act must amend its Form ADV by promptly filing additional amendments (other-than-annual amendments) if required by the written instructions to Form ADV.

(b) **Proof of errors and omissions coverage.** Every investment adviser registered under Section 1-406 of the Securities Act must submit proof of an errors and omissions insurance policy meeting the requirements of ~~660:11-7-11(a)(2)(D)~~660:11-7-11(a)(2)(C) to the Department each year within ~~90 days of the end of its fiscal year~~30 days of renewal of its policy. The proof must be submitted in compliance with 660:11-7-21.

(c) **Financial reports.**

(1) **Filing requirement.** Pursuant to Section 1-410.B of the Securities Act, every investment adviser registered under Section 1-406 of the Securities Act who has custody, as that term is defined in 660:11-7-48, of clients' funds or securities or requires prepayment of advisory fees six (6) months or more in advance and in excess of $1,200.00 per client shall file a post-registration financial report with the Department each fiscal year.

(2) **Report content.** Financial reports shall contain the financial or operating report filing fee specified in Section 1-612 of the Securities Act and an audited statement of financial condition as of the investment adviser's fiscal year end.

(3) **Report filing dates.** Financial reports become due on the last day of the fiscal year to which they apply; however, a grace period is provided before a filing becomes delinquent. The filing must be made within 90 days of the end of the registrant's fiscal year.

(4) **Amendment.** If the information contained in a financial report is or becomes inaccurate or incomplete in a material respect, the investment adviser shall promptly file a correcting amendment.

(d) **Form BR amendments.** Every investment adviser registered under Section 1-406 of the Securities Act must file a Form BR prior to the use or operation of any office in this state. In addition, every investment adviser registered under Section 1-406 of the Securities Act must promptly amend its Form BRs as required by the written instructions to Form BR.

(e) **Incomplete or delinquent filings.** The Department will not accept incomplete or piecemeal filings. Failure to make a required filing before it becomes delinquent may result in the suspension or revocation of registration.

PART 7. RECORD KEEPING AND ETHICAL STANDARDS

660:11-7-42. Dishonest and unethical practices of investment advisers and investment adviser representatives [AMENDED]

(a) **Purpose.** This Section is intended to set forth the standards of ethical practices for investment advisers and investment adviser representatives. The standards set forth in this Section apply to federal covered investment advisers and investment adviser representatives only to the extent that application is permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290). Any noncompliance with the standards set forth in this Section will constitute unethical practices in the securities business as the same is set forth in Section 1-411.D.13 of the Securities Act; however, the following is not intended to be a comprehensive listing of all specific events or conditions that may constitute such unethical practices. The standards shall be interpreted in such manner as will aid in effectuating the policy and provisions of the Securities Act, and so as to require that all practices of investment advisers and investment adviser representatives in connection with their activities in this state shall be just, reasonable and not unfairly discriminatory.

(b) **Standards.** Investment advisers and investment adviser representatives shall act in accordance with their fiduciary duty to their clients and shall not engage in dishonest or unethical practices including, although not limited to, the following:

(1) Recommending to a client to whom investment supervisory, management or consulting services are provided the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the client on the basis of information furnished by the client after reasonable inquiry concerning the client's investment profile.

(A) A client's investment profile includes, but is not limited to, the client's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information disclosed by the client or known to the investment adviser or investment adviser representative.

(B) Institutional clients.

(i) An investment adviser or an investment adviser representative fulfills the customer-specific suitability obligation for an institutional account, as defined in 660:11-1-3, if

(I) the investment adviser or investment adviser representative has a reasonable basis to believe that the institutional client is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies involving a security or securities; and

(II) the institutional client affirmatively indicates that it is exercising independent judgment in evaluating the investment adviser or investment adviser representative's recommendations.

(ii) Where an institutional client has delegated decision-making authority to an agent, such as an investment adviser or a bank trust department, these factors shall be applied to the agent.

(2) Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without obtaining written discretionary authority from the client within ten (10) business days after the date of the first transaction placed pursuant to oral discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of a specified security shall be executed, or both.

(3) Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives and character of the account.

(4) Placing an order to purchase or sell a security for the account of a client without authority to do so.

(5) Placing an order to purchase or sell a security for the account of a client upon instruction of a ~~third party~~third-party without first having obtained a written third-party trading authorization from the client.
(6) Borrowing money or securities from a client unless the client is a broker-dealer, an affiliate of the investment adviser or investment adviser representative, or a financial institution engaged in the business of loaning funds.
(7) Loaning money or securities to a client unless the investment adviser is a financial institution engaged in the business of loaning funds or the client is an affiliate of the investment adviser or investment adviser representative.
(8) Misrepresenting to any advisory client, or prospective advisory client, the qualifications of the investment adviser, investment adviser representative, federal covered investment adviser, or any employee, or person affiliated with the investment adviser, investment adviser representative, or federal covered investment adviser, or misrepresenting the nature of the advisory services being offered or fees to be charged for such service, or omitting to state a material fact necessary to make the statements made regarding qualifications, services or fees, in light of the circumstances under which they are made, not misleading.
(9) Providing a report or recommendation to any advisory client prepared by someone other than the investment adviser, investment adviser representative, federal covered investment adviser, or any employee, or person affiliated with the investment adviser, investment adviser representative, or federal covered investment adviser, without disclosing the source. This prohibition does not apply to a situation where the investment adviser, investment adviser representative or federal covered investment adviser uses published research reports or statistical analyses to render advice or where an investment adviser, investment adviser representative or federal covered investment adviser orders such a report in the normal course of providing service.
(10) Charging a client an unreasonable advisory fee.
(11) Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the investment adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including:

(A) Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and
(B) Charging a client an advisory fee for rendering advice when compensation for effecting securities transactions pursuant to such advice will be received by the investment adviser, investment adviser representative, or federal covered investment adviser, or their employees or affiliated persons.

(12) Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered.
(13) ~~Publishing, circulating, or distributing any advertisement which directly or indirectly does any one of the following:~~Publishing, circulating, or distributing any advertisement which does not comply with Rule 206(4)-1 under the Investment Advisers Act of 1940 as effective March 5, 2021.

~~(A) Refers to any testimonial of any kind concerning the investment adviser, investment adviser representative or federal covered investment adviser, or concerning any advice, analysis, report, or other service rendered by such investment adviser or investment adviser representative.~~
~~(B) Refers to past specific recommendations of the investment adviser, investment adviser representative or federal covered investment adviser that were or would have been profitable to any person; except that an investment adviser or investment adviser representative may furnish or offer to furnish a list of all recommendations made by the investment adviser, investment adviser representative or federal covered investment adviser within the immediately preceding period of not less than one year if the advertisement or list also includes both of the following:~~

~~(i) The name of each security recommended, the date and nature of each recommendation, the market price at that time, the price at which the recommendation was to be acted upon, and the most recently available market price of each such security.~~
~~(ii) A legend on the first page in prominent print or type that states that the reader should not assume that recommendations made in the future will be profitable or will equal the performance of the securities in the list.~~

~~(C) Represents that any graph, chart, formula, or other device being offered can in and of itself be used to determine which securities to buy or sell, or when to buy or sell them; or which represents, directly or indirectly, that any graph, chart, formula, or other device being offered will assist any person in making that person's own decisions as to which securities to buy or sell, or when to buy or sell them, without prominently disclosing in such advertisement the limitations thereof and the difficulties with respect to its use.~~

~~(D) Represents that any report, analysis, or other service will be furnished for free or without charge, unless such report, analysis, or other service actually is or will be furnished entirely free and without any direct or indirect condition or obligation.~~
~~(E) Represents that the [Administrator] has approved any advertisement.~~
~~(F) Contains any untrue statement of a material fact, or that is otherwise false or misleading.~~
~~(G) For the purposes of this section, the term "advertisement" shall include any notice, circular, letter, or other written communication addressed to more than one person, or any notice or other announcement in any electronic or paper publication, by radio or television, or by any medium, that offers any one of the following:~~
~~(i) Any analysis, report, or publication concerning securities.~~
~~(ii) Any analysis, report, or publication that is to be used in making any determination as to when to buy or sell any security or which security to buy or sell.~~
~~(iii) Any graph, chart, formula, or other device to be used in making any determination as to when to buy or sell any security, or which security to buy or sell.~~
~~(iv) Any other investment advisory service with regard to securities.~~

(14) Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to by the client.
(15) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser has custody or possession of such securities or funds when the investment adviser's action does not comply with the requirements of 660:11-7-48.
(16) Entering into, extending, or renewing any investment advisory contract unless such contract is in writing and discloses, in substance, the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or nonperformance, whether the contract grants discretionary power to the investment adviser or investment adviser representative and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract. A transaction that does not result in a change of actual control or management of an investment adviser is not an assignment for purposes of this paragraph.
(17) Entering into, extending, or renewing any investment advisory contract, if such contract contains any provision that limits or purports to limit any of the following:
(A) the liability of the investment adviser for conduct or omission arising from the advisory relationship that does not conform to the Securities Act, applicable federal statutes, or common law fiduciary standard of care;
(B) remedies available to the client at law or equity or the jurisdiction or venue where any action shall be filed or heard; or
(C) applicability of the laws of Oklahoma with respect to the construction or interpretation of the provisions of the investment advisory contract.
(18) Failing to adopt, implement, and follow written supervisory procedures that are tailored specifically to their business and that:
(A) address the activities of all its investment adviser representatives and associated persons;
(B) identify who has supervisory responsibilities, including a record of each associated person who has supervisory responsibilities and the date assigned, and procedures for each business line and applicable securities laws for which each supervisor is responsible; and
(C) specifically identify the individual to perform a supervisory function; what specifically the supervisor will review; when or how often the review will take place and how the supervisor's review will be documented.
(19) Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Securities Act or any section thereunder.
(20) Accessing a client's account by using the client's own unique identifying information such as username and password.
(21) Failing to establish, maintain, and enforce required policies and procedures.
(22) Knowingly selling any security to or purchasing any security from a client while acting as principal for its own advisory account, or knowingly effecting any sale or purchase of any security for the account of the client while acting as broker-dealer for a person other than the client, without disclosing to the client in writing before the completion of the transaction the capacity in which it is acting and obtaining the consent of the client to the transaction.

(A) The prohibitions of this paragraph (22) shall not apply to any transactions with a customer of a broker-dealer if the broker-dealer is not acting as an investment adviser in relation to the transaction.
(B) The prohibition of this paragraph (22) shall not apply to any transaction with a customer of a broker-dealer if the broker-dealer acts as an investment adviser solely:

(i) by means of publicly distributed written materials or publicly made oral statements;
(ii) by means of written materials or oral statements not purporting to meet the objectives or needs of specific individuals or accounts;
(iii) through the issuance of statistical information containing no expressions of opinion as to the investment merits of a particular security; or
(iv) any combination of the foregoing services.

(C) Publicly distributed written materials or publicly made oral statements shall disclose that, if the purchaser of the advisory communication uses the investment adviser's services in connection with the sale or purchase of a security which is a subject of the communication, the investment adviser may act as principal for its own account or as agent for another person. Compliance by the investment adviser with the foregoing disclosure requirement shall not relieve it of any other disclosure obligations under the Securities Act.
(D) The prohibition of this paragraph (22) shall not apply to an investment adviser effecting an agency cross transaction for an advisory client provided the following conditions are met:

(i) The advisory client executes a written consent prospectively authorizing the investment adviser to effect agency cross transactions for such client~~;~~.
(ii) Before obtaining such written consent from the client, the investment adviser makes full written disclosure to the client that, with respect to agency cross transactions, the investment adviser will act as broker-dealer for, receive commissions from, and have a potentially conflicting division of loyalties and responsibilities regarding both parties to the transactions~~;~~.
(iii) At or before the completion of each agency cross transaction, the investment adviser or any other person relying on this subparagraph sends the client a written confirmation. The written confirmation shall include:

(I) A statement of the nature of the transaction;
(II) The date the transaction took place;
(III) An offer to furnish, upon request, the time when the transaction took place; and
(IV) the source and amount of any other remuneration the investment adviser received or will receive in connection with the transaction. In the case of a purchase, if the investment adviser was not participating in a tender offer, the written confirmation shall state whether the investment adviser has been receiving or will receive any other remuneration and that the investment adviser will furnish the source and amount of such remuneration to the client upon the client's written consent.

(iv) At least annually, and with or as part of any written statement or summary of the account from the investment adviser, the investment adviser or any other person relying on this subparagraph (D) send each client a written disclosure statement identifying:

(I) The total number of agency cross transactions during the period for the client since the date of the last such statement or summary; and
(II) The total amount of all commissions or other remuneration the investment adviser received or will receive in connection with agency cross transactions for the client during such period.

(v) Each written disclosure and confirmation required by this subparagraph (D) must include a conspicuous statement that the client may revoke the written consent required under (i) of this subparagraph (D) at any time by providing written notice to the investment adviser.
(vi) No agency cross transaction may be effected in which the same investment adviser recommended the transaction to both any seller and any purchaser.
(vii) Nothing in the subparagraph (D) shall be construed to relieve an investment adviser or investment adviser representative from acting in the best interests of the client, including fulfilling his duty with respect to the best price and execution for the particular transaction for the client nor shall it relieve any investment adviser or investment adviser representative of any other disclosure obligations imposed by the Securities Act.

(E) Definitions for purposes of this paragraph (22).

(i) "Agency cross transaction for an advisory client" means a transaction in which a person acts as an investment adviser in relation to a transaction in which the investment adviser, or any person controlling, controlled by, or under common control with such investment adviser, including an investment adviser representative, acts as a broker-dealer for both the advisory client and another person on the other side of the transaction. When acting in such capacity such person is required to be registered as a broker-dealer in this state unless excluded from the definition.
(ii) "Publicly distributed written materials" means written materials which are distributed to 35 or more persons who pay for those materials.
(iii) "Publicly made oral statements" means oral statements made simultaneously to 35 or more persons who pay for access to those statements.

(23) Sharing an office with a person who is not an advisory affiliate without:
(A) reducing any agreement with the unaffiliated person to writing;
(B) taking appropriate measures, including, but not limited to, adequate disclosures to eliminate the appearance of an agency relationship with the unaffiliated person when one does not otherwise exist; and
(C) complying with all applicable Oklahoma and federal laws requiring the safeguarding of customer data from the unaffiliated person.

(24) Failing to pay and fully satisfy any final judgment or arbitration award resulting from an investment-related, client or customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to between the client and the investment adviser or investment adviser representative or between the customer and the broker-dealer or broker-dealer agent, in writing, and the broker-dealer or broker-dealer agent complies with the terms of the alternative payment arrangement.
(25) Attempting to avoid payment of any final judgment or arbitration award resulting from an investment-related, client or customer-initiated arbitration or court proceeding, unless alternative payment arrangements are agreed to between the client and the investment adviser or investment adviser representative or between the customer and the broker-dealer or broker-dealer agent, in writing, and the broker-dealer or broker-dealer agent complies with the terms of the alternative payment arrangements.
(26) Failing to pay and fully satisfy any fine, civil penalty, order of restitution, order of disgorgement, or similar monetary payment obligation imposed upon the investment adviser or investment adviser representative by the Securities and Exchange Commission, the securities or other financial services regulator of any state or province, or any self-regulatory organization.

SUBCHAPTER 9. REGISTRATION OF SECURITIES

PART 5. GUIDELINES AND POLICIES APPLICABLE TO OFFERINGS OF REGISTERED SECURITIES

660:11-9-34. ~~NASAA~~ Application of NASAA Statements of Policy and guidelines [AMENDED]
(a) **Application of NASAA Statements of Policy and guidelines.** The Administrator in ~~his~~the Administrator's discretion may apply any Statements of Policy or guidelines adopted by NASAA, or its successors, to a registration of securities pursuant to the Securities Act.
(b) **Cross-reference sheet.** Issuers, or interested persons on the issuer's behalf, shall prepare a cross-reference sheet setting out each section of the ~~statement of policy~~Statement of Policy or guideline applied by the Administrator pursuant to this ~~rule~~Section, and reflecting the document and page numbers where compliance with each section of the ~~statement of policy~~Statement of Policy or guideline is disclosed. Any variance or failure to comply with particular sections of an applicable ~~statement of policy~~Statement of Policy or guideline shall be noted by the issuer ~~or his attorney~~, and the reasons for the variance shall be fully stated.
(c) **Failure to comply.** Failure to comply with any provision of an applicable Statement of Policy or guideline promulgated by NASAA may serve as the grounds for denial of the registration.
(d) **Waiver provisions.** The Administrator in ~~his~~the Administrator's discretion may waive any of the requirements of the ~~statements of policy~~Statements of Policy or guidelines upon written request of the registrant, if the Administrator finds that the requirement is not necessary to protect the public interest under the circumstances. Any such request shall be filed with the registration statement and shall indicate the reasons why the requirement is not necessary under the circumstances described in the registration statement.

SUBCHAPTER 11. EXEMPTIONS FROM SECURITIES REGISTRATION

PART 1. GENERAL PROVISIONS

660:11-11-5. Application of NASAA Statements of Policy and guidelines [NEW]

(a) **Application of NASAA Statements of Policy and guidelines.** The Administrator in the Administrator's discretion may apply any Statements of Policy or guidelines adopted by NASAA, or its successors, as applicable, to the proposed offer or sale of a security for which notice of exemption of securities must be filed under the Securities Act.

(b) **Cross-reference sheet.** Issuers, or interested persons on the issuer's behalf, shall prepare a cross-reference sheet setting out each section of the Statement of Policy or guideline applied by the Administrator pursuant to this Section, and reflecting the document and page numbers where compliance with each section of the Statement of Policy or guideline is disclosed. Any variance or failure to comply with particular sections of an applicable Statement of Policy or guideline shall be noted by the issuer and the reasons for the variance shall be fully stated.

(c) **Failure to comply.** Failure to comply with any provision of an applicable Statement of Policy or guideline promulgated by NASAA may serve as the grounds for denial of the registration.

(d) **Waiver provisions.** The Administrator in the Administrator's discretion may waive any of the requirements of the Statements of Policy or guidelines upon written request of the registrant, if the Administrator finds that the requirement is not necessary to protect the public interest under the circumstances. Any such request shall be filed with the registration statement and shall indicate the reasons why the requirement is not necessary under the circumstances described in the registration statement.

PART 3. EXEMPT SECURITIES

660:11-11-21. Not for profit debt securities notice filing [AMENDED]

(a) **Securities exempt.** With respect to the offer or sale of a note, bond, debenture, or other evidence of indebtedness, such issuers relying upon the exemption from registration provided in Section 1-201.7 of the Securities Act shall file a notice with the Administrator at least ten (10) full business days prior to the first offering of sale pursuant to such claim. Such exemption shall become effective ten (10) full business days after the filing of a complete notice if the Administrator has not disallowed the exemption.

(b) **Notice information.** The notice required in (a) shall specify, in writing, the material terms of the proposed offer or sale to include, although not limited to, the following:

(1) the identity of the issuer;
(2) the amount and type of securities to be sold pursuant to the exemption;
(3) a description of the use of proceeds of the securities; and
(4) the person or persons by whom offers and sales will be made.

(c) **Notice requirements.** The following items must be included as a part of the notice in (a):

(1) the offering statement, if any;
(2) a consent to service of process on Form U-2 and (if applicable) Form U-2A; and
(3) the fee required by Section 1-612 of the Securities Act.

(d) **Sales and advertising literature.** All proposed sales and advertising literature to be used in connection with the proposed offer or sale of the securities shall be filed with the Administrator only upon request.

(e) ~~**NASAA Statements of Policy or guidelines.** The Statements of Policy or guidelines adopted by NASAA may be applied, as applicable, to the proposed offer or sale of a security for which a notice must be filed pursuant to this rule. Failure to comply with the provisions of an applicable Statement of Policy or guideline promulgated by NASAA may serve as the grounds for disallowance of the exemption from registration provided by Section 1-201.7 of the Securities Act.~~

~~(f)~~ **Waiver.** The Administrator may waive any term or condition set forth in this ~~rule~~Section.

PART 5. EXEMPT TRANSACTIONS

660:11-11-42. ~~Interpretation of "existing security holders"~~Existing securities holders exemption [AMENDED]

(a) **Terms of the exemption.** Under the authority of Section 1-202.15 of the Securities Act, transactions meeting the following conditions are exempt from Sections 1-301 and 1-504 of the Securities Act:

(1) **Sales to existing security holders.** The issuer meets all of the requirements set forth in Section 1-202.15 of the Securities Act.
(2) **Initial notice filing.** The issuer, at least ten (10) business days prior to the first sale of the securities, shall file a notice of the proposed offering directly with the Department. The proposed notice must disclose the following in writing;
(A) **Notice information.** The notice shall specify, in writing, the material terms of the proposed offer or sale to include, although not limited to, the following:
(i) the identity of the issuer;
(ii) the amount and type of securities to be sold pursuant to the exemption;
(iii) a description of the type of proceeds of the securities; and
(iv) the person or persons by whom offers and sales will be made.
(B) **Notice requirements.** The following items must be included as a part of the notice:
(i) the offering statement, if any;
(ii) a consent to service of process on Form U-2 and, if applicable, Form U-2A; and
(iii) the fee required by Section 1-612 of the Securities Act.
(b) **Sales and advertising literature.** All proposed sales and advertising literature to be used in connection with the proposed offer or sale of the securities shall be filed with the Administrator only upon the Administrator's request.
(c) **Gifts excluded.**For purposes of the exemption from registration set forth in Section 1-202.15 of the Securities Act, the term "existing security holder" shall not include a person who is a security holder of an issuer only by the receipt of securities as a gift by said issuer; consequently, the exemption from registration set forth in Section 1-202.15 of the Securities Act would not be available in connection with transactions to such security holders. For purposes of this ~~rule~~Section, a distribution of securities shall be deemed to be a gift if the security holder does not give consideration in exchange for the securities.
(d) **Waiver.** The Administrator may waive any term or condition set forth in this Section.

660:11-11-54. Intrastate offering exemption [AMENDED]
(a) **Terms of the Exemption.** Under the authority of Section 1-202.25 of the Securities Act, transactions meeting the following conditions are exempt from Sections 1-301 and 1-504 of the Securities Act:
(1) **Intrastate offers and sales.** The issuer meets all of the requirements set forth in Section 1-202.25 of the Securities Act.
(2) **Minimum offering amount.** Investors shall receive a return of all their subscription funds if the minimum offering amount is not raised by the time stated in the disclosure document. Non-cash contributions from control persons or other insiders shall not be considered in fulfilling the minimum offering amount.
(3) **Initial notice filing.** The issuer, at least ten (10) business days prior to the first sale of the securities, shall file a notice of the proposed offering directly with the Department. The notice must include the following:
(A) the names and addresses of the issuer, all persons who will be involved in the offer or sale of securities on behalf of the issuer, and any bank or other depository institution in which investor funds will be deposited;
(B) a copy of the disclosure document to be provided to each prospective purchaser in connection with the offering within a reasonable period of time before the date of sale containing at least the following:
(i) the name, legal status, physical address, and website address of the issuer;
(ii) the names of the directors, officers, and any other control persons with descriptions of each person's background and qualifications;
(iii) a description of the business of the issuer and the anticipated business plan of the issuer;
(iv) a description of the stated purpose and intended use of the proceeds of the offering sought by the issuer, including compensation paid to any officer, director, or control person;
(v) the target offering amount and the deadline to reach the target offering amount, and any minimum amount required to close the offering if such minimum is less than the target offering amount;
(vi) the amount of commission or other renumeration to be paid to any broker-dealer or agent involved in the offer or sale of the securities;
(vii) financial information about the issuer, certified by the issuer's chief executive officer and chief financial officer, or other individual serving in a similar capacity, to be true and complete in all material respects, including:

(I) annual financial statements, unless the issuer is newly organized and has not reached its first fiscal year end, that are dated as of the end of the issuer's most recently completed fiscal year; are prepared in accordance with generally accepted accounting principles in the United States; include a balance sheet, statement of income, statement of cash flows, statement of changes in stockholders' equity and notes to the financial statements; and comply with the applicable standard set forth in (4) of this subsection; and

(II) interim financial statements including an unaudited balance sheet and statement of income for the issuer's most recently completed fiscal quarter, but only if the issuer is newly organized and has not reached its first fiscal year end or the date of the issuer's most recently completed fiscal year end is more than one hundred twenty (120) days prior to the date of filing.

(C) a description of any litigation, legal proceedings, or pending regulatory action involving the issuer, its officers, directors, or control persons;

(D) a statement that:

(i) sales will only be made to any one person in an amount up to $5,000.00 unless the persons are accredited investors as that term is defined in Rule 501 of Regulation D of the ~~Securities Act of~~ 1933 Act (17 C.F.R. 230.501);

(ii) sales will only be made to residents of the state of Oklahoma at the time of the sale of the security;

(iii) the securities have not been registered with or approved by the state of Oklahoma and are being offered and sold pursuant to an exemption from registration and, therefore, cannot be resold unless the securities are registered or qualify for an exemption from registration under federal and state law;

(iv) for a period of six (6) months from the date of the sale by the issuer of the securities, any resale of the securities (or the underlying securities in the case of convertible securities) shall be made only to persons resident within the state of Oklahoma; and

(v) there is no ready market for the sale of the securities acquired from this offering and it may be difficult or impossible for a purchaser to sell or otherwise dispose of this investment;

(E) a copy of the escrow agreement;

(F) a consent to service of process on Form U-2 and (if applicable) Form U-2A; and

(G) the fee as set forth in Section 1-612 of the Securities Act.

(4) **Annual financial statement standards.** The annual financial statements required in (3)(B)(vii)(I) of this subsection must meet the following applicable standard:

(A) For offerings that have an aggregate offering amount of $500,000 or less, the issuer may provide unaudited and unreviewed financial statements. However, if the issuer has obtained financial statements that have been compiled, reviewed, or audited by an independent certified public accountant, the issuer must provide those financial statements;

(B) For offering that have an aggregate offering amount of more than $500,000 but less than $1,000,000, the financial statements must be compiled by an independent certified public accountant. However, if the issuer has obtained financial statements that have either been reviewed or audited by an independent certified public accountant, the issuer must provide those financial statements; or

(C) For offerings that have an aggregate offering amount of $1,000,000 or more, the financial statements must be reviewed by an independent certified public accountant. However, if the issuer has obtained financial statements that have been audited by an independent certified public accountant, the issuer must provide those financial statements.

(5) **Continuing notice filings.** For offerings that continue beyond one year from the commencement date of the offering, the issuer shall file with the Department, no later than thirty (30) days after the end of each quarter, updated interim financial statements including an unaudited balance sheet and statement of income for the issuer's most recently completed fiscal quarter, certified by the issuer's chief executive officer and chief financial officer, or other individual serving in a similar capacity, to be true and complete in all material respects.

(6) **Final notice filing.** The issuer shall file with the Department, no later than thirty (30) days after the termination of the offering, a final notice that the offering has been terminated. The final notice must include the following:

(A) the Oklahoma exemption file number for the offering of securities to which the final notice relates;

(B) the commencement date of the offering and the termination date of the offering;

(C) a sales report that discloses the dollar amount of securities sold in Oklahoma in connection with the offering, in the following format:

(i) Beginning offering amount;

(ii) Minus: Amount sold during the offering;

(iii) Balance unsold at the termination of the offering; and

(D) If the offering did not achieve the minimum offering amount, the issuer shall provide written confirmation to the Department that all offering proceeds that were raised in the offering were returned to each purchaser and that each purchaser did receive their investment proceeds.

(7) **Fees.** There are no fees required to be paid for the continuing notices or the final notice.

(8) **Piecemeal filings.** Any notice required under this ~~section~~Section is not considered filed if it is incomplete. Piecemeal filings shall not be accepted.

(9) **Required legend.** The issuer shall, in connection with any securities sold by it under this Section, place a prominent legend on the certificate or other document evidencing the security stating that: "Offers and sales of these securities were made under an exemption from registration and have not been registered under the Securities Act of 1933 or the Oklahoma Uniform Securities Act of 2004. For a period of six months from the date of the sale by the issuer of these securities, any resale of these securities (or the underlying securities in the case of convertible securities) shall be made only to persons resident within the state of Oklahoma."

(10) **Evidence from purchaser.** The issuer shall obtain from each purchaser a written representation of residency within the state of Oklahoma before a sale may be made. Such representation shall include an affirmation made by the purchaser that the purchaser is at least eighteen (18) years of age and purchasing the securities for investment. The issuer shall also obtain a copy of any one of the following from the purchaser:

(A) valid Oklahoma driver's license or official identification card issued by the State of Oklahoma;

(B) current Oklahoma voter registration card; or

(C) county property tax records showing the individual owns and occupies property in Oklahoma as his or her primary residence.

(b) ~~**Application of NASAA Statements of Policy and guidelines.** The Department may apply the provisions of applicable Statements of Policy or guidelines adopted by NASAA to any offering of securities made pursuant to this exemption from registration. Failure to comply with any such provision may serve as the basis for withdrawing or further conditioning the exemption as to a particular offering.~~**Waiver.** The Administrator may waive any term or condition set forth in this Section.

[OAR Docket #24-754; filed 7-5-24]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 1. ADMINISTRATIVE OPERATIONS

[OAR Docket #24-637]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Public Policy

Part 11. PUBLIC RECORDS

710:1-3-73. Opinions and letter rulings [AMENDED]

Part 13. OTHER POLICY PROVISIONS

710:1-3-80. Procedures for partial release of tax warrant or lien [AMENDED]

Subchapter 5. Practice and Procedure

Part 1. GENERAL PROVISIONS

710:1-5-1. Purpose [AMENDED]

Part 3. DESCRIPTION OF ADMINISTRATIVE REVIEW AND HEARINGS

710:1-5-10. Tax protests and claims for refund [REVOKED]

710:1-5-10.1. Protests / Demands for hearing [NEW]

710:1-5-11. Petitions for abatement [AMENDED]

710:1-5-13. Settlement of claims or protests [AMENDED]

Part 5. ADMINISTRATIVE PROCEEDINGS RELATED TO TAX PROTESTS

710:1-5-22. Commencement and numbering of a protest of a proposed assessment [AMENDED]
710:1-5-24. ~~Protests to denials of claims for refunds~~Commencement and numbering of a demand for hearing related to a claim for refund [AMENDED]
710:1-5-25. Content of protests, demands for hearing, and applications for hearing [AMENDED]
710:1-5-28. Pre-hearing conference [AMENDED]
710:1-5-29. Notice of hearing [AMENDED]
710:1-5-34. Rules of evidence [AMENDED]
710:1-5-36. Evidence by official notice [AMENDED]
710:1-5-37. Transcript of oral hearings; request for certified court reporter [AMENDED]
710:1-5-38. Submission of case on briefs [AMENDED]
710:1-5-38.1. Motion for summary disposition [AMENDED]
710:1-5-40. Options available to parties after action by Administrative Law Judge [AMENDED]
710:1-5-43. Exceptions to the requirement for exhausting administrative remedies [AMENDED]
710:1-5-44. Computation of time in pending administrative proceedings [AMENDED]
710:1-5-45. Service of documents in pending administrative proceedings [AMENDED]
710:1-5-46. Dismissal of case [AMENDED]
710:1-5-47. Burden of proof [AMENDED]
710:1-5-49. Survival and abatement of protests and demands for hearing [AMENDED]
Part 7. ABATEMENT OF ERRONEOUS TAX ASSESSMENT
710:1-5-70. Purpose [AMENDED]
710:1-5-71. When an assessment becomes final [AMENDED]
710:1-5-72. Request for adjustment or abatement [AMENDED]
Part 8. SETTLEMENT OF TAX LIABILITY
710:1-5-88. Effect of a Settlement Agreement [AMENDED]
710:1-5-92. Exclusivity of request for settlement of tax liability [AMENDED]
Part 9. PROCEEDINGS RELATED TO PERMITS AND LICENSES [AMENDED]
710:1-5-100. Show cause hearings relating to license or permit cancellation [AMENDED]
710:1-5-101. Protest of refusal to issue, extend or reinstate license or permit [NEW]
Part 10. BUSINESS COMPLIANCE PROCEEDINGS
710:1-5-114. Closure Order [AMENDED]

AUTHORITY:
68 O.S. § 203; Oklahoma Tax Commission
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
January 30, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 2, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:

N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Section 710:1-3-73 has been revised to provide clarity that letter rulings may be accessed and viewed online. Section 710:1-3-80 has been amended to provide clarity on the process and specific conditions for requesting a partial release of a tax warrant. Section 710:1-5-1 has been modified to enhance the clarity between a protest of an assessment and a demand for hearing regarding a denied claim for refund. [68:221. 227] Part 3. Description Of Administrative Review and Hearings has been amended to provide greater clarity in distinguishing between a protest of an assessment and a demand for hearing relating to a denied claim for refund. Additionally, certain information that was misleading and unnecessary has been removed, and changes were made to implement the provisions of HB 2289. [68:221, 227] Part 5. Administrative Proceedings Related to Tax Protests has been amended to provide greater clarity in distinguishing between a protest of an assessment (68 O.S. § 221), a demand for hearing relating to a denied claim for refund (68 O.S. § 227) and an application for hearing (68 O.S. § 207). Additionally, the rules have been updated to incorporate recent legislative revisions (HB 2289) and to enhance the clarity of regulations and processes governing proceedings before an administrative law judge. [68:207, 221, 225, 227] Part 7. Abatement Of Erroneous Tax Assessment has been revised to provide a clearer outline of the procedure for submitting a protest and to incorporate the provisions of HB 2289 which specifies that a written protest must be submitted within 60 days from the date indicated on a proposed assessment. [68:221] Part 8. Settlement of Tax Liability has been amended to provide greater clarity in distinguishing between a protest of an assessment and a demand for hearing relating to a denied claim for refund. [68:221, 227] Part 9. Proceedings Related to Permits and Licenses has been amended to implement the provisions of HB 2289 and SB 600 to elucidate the protocols for revoking or suspending a sales tax permit due to noncompliance with any provisions of 68 O.S. § 1364. [68:221] Part 10. Business Compliance Proceedings has been amended to clarify policy regarding the interpretation and application of current statutory provisions governing business closure proceedings and requirements related thereto. [68:1368.3]
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. PUBLIC POLICY

PART 11. PUBLIC RECORDS

710:1-3-73. Opinions and letter rulings [AMENDED]
(a) **Opinions not issued by the Commission.** An "opinion" is a formal document, generally prepared by legal counsel, expressing conclusions that interpret or apply the law to a set of assumed facts. As so defined, the Oklahoma Tax Commission does not issue opinions. However, legal counsel may prepare such a document to advise the Commission or a ~~taxing~~ Division within the Commission.
(b) **"Opinion" defined**. Thus, an "opinion," with respect to the Oklahoma Tax Commission, means a written communication embodying formal legal advice, upon which the Commission may base, in whole or in part, administrative decisions, decisions in individual tax proceedings, or prospective policy decisions. Opinions, being advisory to the Commission, do not constitute authority by any party for challenging any matter pending before the Commission.

(c) **Opinion may impact policy, rulemaking.** To the degree that a policy of the Commission, based upon such a legal opinion, impacts broad segments of taxpayers and is to be given future effect by the Commission, such policy may be promulgated as a rule of the Commission.
(d) **Availability of opinions.** Such opinions as may be made available to the public, pursuant to the provisions of Section 302(A)(4) of Title 75, as further defined and limited by the terms of Section 24A.1, et seq. of Title 51, will be limited to those which are, or will be embodied in policy of the Commission.
(e) **"Letter ruling" described.** The Tax Policy and Research Division and the Office of the General Counsel may draft and issue letter rulings, which are informal written statements of policy or treatment of specific fact situations under Oklahoma tax law. Such a letter ruling may generally be relied upon only by the taxpayer to whom it is issued, provided that all facts have been accurately and completely stated, and that there has been no change in applicable law.
(f) **Requests for letter rulings.** Requests by individuals or groups of taxpayers for letter rulings will be honored by the Commission, at its discretion, and in consideration of the time and resources available to respond to such requests. Requests for letter rulings should be made to the Tax Policy and Research Division, Oklahoma Tax Commission, Oklahoma City, OK 73194.
(g) **Letter ruling may initiate rulemaking.** To the degree that a letter ruling impacts broad segments of taxpayers and is to be given future effect by the Commission, such letter ruling may become the basis for a rule of the Commission.
(h) **Availability of letter rulings.** Letter rulings may be viewed online at ~~the Taxpayer Resource Center, 300 N. Broadway Ave, Oklahoma City, OK 73102, during normal business hours~~tax.ok.gov.

PART 13. OTHER POLICY PROVISIONS

710:1-3-80. Procedures for partial release of tax warrant or lien [AMENDED]
(a) Partial ~~Release~~release of a ~~Tax Warrant~~tax warrant or ~~Lien~~lien may be issued under the following circumstances:
(1) Where there is a short sale and the lien of an outstanding ~~Tax Warrant~~tax warrant is unenforceable or uncollectible due to the existence of a prior lien(s) held on the parcel of realty, and the amount of the outstanding prior lien(s) exceeds the amount such property would bring at a sale of the property for fair market value;
(2) Where the lien of an outstanding ~~Tax Warrant~~tax warrant is unenforceable or uncollectible due to the existence of a prior outstanding mortgage lien(s) held by the requesting party on the parcel of realty, and the amount of the outstanding mortgage lien(s) exceeds the amount such property would bring at a foreclosure sale;
(3) Where a mortgage lien(s) has been foreclosed in an action in a District Court but where there has been a failure to name the State of Oklahoma ex rel, Oklahoma Tax Commission as a party defendant in the foreclosure action and there exists no likelihood of collection or enforceability of a ~~Tax Warrant~~tax warrant against a particular parcel of realty;
(4) Where the holder of a mortgage lien(s) has taken a deed in lieu of foreclosure and there exists no likelihood of collection or enforceability of a ~~Tax Warrant~~tax warrant against a particular parcel of realty;
(5) Where the applicant is not the taxpayer named in the ~~Tax Warrant~~tax warrant and acquired a parcel of realty encumbered by an Oklahoma Tax Commission tax lien, whether it be at a County Tax Resale or any other situation where title was passed from the taxpayer named in the ~~Tax Warrant~~tax warrant to the applicant without properly extinguishing the ~~Tax Warrant~~tax warrant;
(6) Where there exists no likelihood of collection or enforceability of a ~~Tax Warrant~~tax warrant against a particular parcel of realty because the applicant does not have enough equity in the property to satisfy the ~~Tax Warrant~~tax warrant in full; ~~or~~
(7) Where the applicant seeks a subordination of an outstanding tax warrant to facilitate the refinancing of a prior mortgage; or
(8) Where the denial of the ~~Partial Release~~partial release would result in an undue expense or hardship on the requesting party.
(b) For purposes of this Section, under the situations described in (a) of this Section, **"adequate consideration"** for a ~~Partial Release~~partial release is defined as follows:
(1) In a situation described in (a)(1), (a)(2) or (a)(3) of this Section, payment of ten percent (10%) of the ~~Tax Warrant~~tax warrant inclusive of interest and penalty, provided such an amount is not less than Five Hundred Dollars ($500.00).
(2) In a situation described in (a)(4) of this Section, payment of the principal tax liability on the ~~Tax Warrant~~tax warrant, provided such an amount is not less than Five Hundred Dollars ($500.00).
(3) In a situation described in (a)(5) or (a)(6) of this Section, payment of all ~~of~~ the net proceeds from the sale.

(4) In a situation described in (a)(7) of this Section, payment of all the equity extracted. If there is no equity being withdrawn, a payment equal to ten percent (10%) of the tax warrant amount inclusive of both interest and penalty is to be made, provided such amount is not less than Five Hundred Dollars ($500.00).
(5) Pursuant to 68 O.S. Section 214, a ~~Tax Warrant~~tax warrant may be released without the payment of any consideration only when the Tax Commission determines that the warrant, certificate or judgment is clouding the title of such property by reason of error in the description of properties or similarity of names.
~~(5)~~(6) In any case where the Commission shall determine that the amount prescribed by (1) through ~~(4)~~(5) of this subsection shall be excessive or inadequate, or in a situation described in (a)(8) of this Section, then adequate consideration shall be such amount as the Commission shall prescribe.

SUBCHAPTER 5. PRACTICE AND PROCEDURE

PART 1. GENERAL PROVISIONS

710:1-5-1. Purpose [AMENDED]

The provisions of Subchapter 5 have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§302, 305, and 307. The various procedural processes, both formal and informal, by which a party aggrieved by any action of the Commission in the performance of its functions may seek a remedy are described in Subchapter 5.

(1) The provisions of Part 3 are intended to describe the various procedures, both formal and informal, by which a taxpayer may seek redress of a grievance or seek to have a particular suggestion or complaint considered by the Commission, pursuant to the various remedial avenues provided by statute.
(2) The provisions of Part 5 of this Subchapter prescribe the formal ~~Rules~~rules of Practice and Procedure before the Office of the Administrative Law Judges, particularly with respect to protests ~~of tax assessments and protests of denials of claims for refunds of taxes paid~~and demands for hearing.
(3) The provisions of Part 7 govern the procedures for the consideration and disposition of a request for an abatement or adjustment of an alleged erroneous tax assessment.
(4) Finally, Part 9 of this Subchapter addresses procedures which govern the administrative proceedings dealing with the granting, suspension, and revocation of various permits and licenses which fall within the administrative purview of the Commission.

PART 3. DESCRIPTION OF ADMINISTRATIVE REVIEW AND HEARINGS

710:1-5-10. Tax protests and claims for refund [REVOKED]

~~(a) A **protest** may be described as a formal, written challenge to a proposed tax assessment or to the denial of a claim for refund of taxes paid. The statutory requirements for perfecting a protest or claim for refund are governed, generally, by the provisions of the Uniform Tax Procedure Code (68 O.S. §§ 201 et seq.), except in the areas of Income Tax (Article 23 of Title 68 of the Oklahoma Statutes) and Estate Tax (Article 8 of Title 68 of the Oklahoma Statutes) which have additional, and in some instances, superseding, statutory requirements.~~
~~(b) There are several routes available, both formal and informal, to a taxpayer in objecting to an assessment. Prior to the filing of a protest, the issues may be resolved by further discussion with the assessing tax division. Challenged assessments or audits may be amended or adjusted by the tax Division involved, upon reasoned grounds and adequate documentation. Should issues remain unresolved after consulting with the assessing division, the taxpayer may file written protest with the taxing division. A protest must be "timely filed." That is, it must be filed on, or before, the statutory time provided for filing protests, to insure that the protestant-taxpayer preserves his legal rights to a full hearing of the matter and a route for appeal if the disposition of the protest is not resolved in his favor. In the absence of a formal written extension of time within which to file a protest, **proposed assessments which are not protested within the time prescribed by statute are considered final.** Any finally assessed tax in such a case which is paid to or collected by the Tax Commission is not subject to a claim for refund or hearing thereon, to the extent provided in 68 O.S. § 227(f). Thus, a taxpayer who receives a notice of proposed assessment of tax from the Tax Commission should not assume that it can be challenged later by way of a claim for refund, if a protest of the proposed assessment is not timely filed and the proposed assessment then becomes final. However, a taxpayer who fails to file a timely protest may, within one (1) year of the date the assessment becomes final, request the Tax Commission to adjust or abate the assessment pursuant to 68 O.S. § 221(c) and the provisions of Part 7 of this Subchapter.~~

~~(c) The following is a brief description of a typical protest that would take place within the framework of the Oklahoma Tax Commission administrative proceedings process.~~

~~(1) Initially, an audit is conducted by one of the various taxing Divisions of the Oklahoma Tax Commission pursuant to 68 O.S. § 221(a). Thereafter, a proposed assessment is issued to the taxpayer. If, in fact, the taxpayer disagrees with the proposed assessment, a protest may be filed, generally within sixty (60) days of the date of the assessment, pursuant to the provisions of 68 O.S. § 221(c).~~

~~(2) Except for the initial filing of a protest, which may be made with the taxing division, with the Office of the General Counsel, or with the office of the Administrative Law Judges, the office of the Administrative Law Judges serves as the "Court Clerk" for the administrative hearing process. The Administrative Law Judges are appointed by the Commissioners of the Oklahoma Tax Commission and act independently of the taxing Divisions and the Office of the General Counsel.~~

~~(3) Once a protest is received by the taxing Division, the Division will generally review the proposed assessment to determine whether further adjustments are appropriate. Additional discussion between the taxpayer and the Division may be requested in this regard. If issues still remain unresolved at the conclusion of this process, the protest is forwarded to the Administrative Law Judges' Office, where the protest is docketed and a Pre-Hearing Conference is scheduled between the taxpayer, the General Counsel's Office attorney who represents the taxing Division and an Administrative Law Judge.~~

~~(4) At this time, a case may be resolved through discussion and negotiation with the staff attorney and the protest or claim is formally withdrawn from the docket, at the request of the parties. This informal resolution may be described as either a withdrawn assessment or a withdrawn protest, depending upon the manner in which the issues were resolved.~~

~~(5) Generally, the manner in which a case is to be submitted is decided by the parties at the Pre-Hearing Conference. Other matters decided at this conference are the legal issues of the case and the manner of evidence or witnesses (or both) to be presented at any hearing. Taxpayers are urged to respond to letters; appear or make alternate arrangements at scheduled pre-hearing conferences and hearings; file required briefs or position letters in a timely fashion; and in all respects pursue their legal rights diligently.~~

~~(6) Following the Pre-Hearing Conference, and assuming the case is not resolved, it is set for hearing. The Administrative Law Judge will preside at the hearing, wherein testimony and exhibits are received and a record is made. After consideration of the merits, the Administrative Law Judge will issue Findings, Conclusions and Recommendations.~~

~~(7) Following the issuance of the Findings by the Administrative Law Judge, the Commissioners may either adopt the Finding, or modify it, in part, or in whole. If the taxpayer has requested an en banc hearing, the Commission may grant it at this time. Once the Order of the Commission is issued, the Taxpayer has thirty (30) days within which to file an appeal with the Oklahoma Supreme Court.~~

~~(8) Detailed procedural rules governing a tax~~ **protest** ~~may be found in 710:1-5-21 through 710:1-5-49, which set out rules of Practice and Procedure before the Office of the Administrative Law Judges.~~

710:1-5-10.1. Protests / Demands for hearing [NEW]

(a) A taxpayer may challenge a proposed tax assessment through the filing of a letter of protest pursuant to 68 O.S. § 221(C). A letter of protest may also contain a request for hearing. A taxpayer may challenge the denial of a claim for refund through the filing of a demand for hearing pursuant to 68 O.S. § 227(D). The statutory requirements for perfecting a protest or claim for refund are governed, generally, by the provisions of the Uniform Tax Procedure Code (68 O.S. §§ 201 et seq.), except in the area of Income Tax (Article 23 of Title 68 of the Oklahoma States) which have additional, and in some instances, superseding, statutory requirements.

(b) All letters of protest and demands for hearing must be timely filed. The letter of protest or demand for hearing must be filed on, or before, the statutory deadline provided for filing to ensure that the taxpayer preserves its legal rights, including but not limited to a full hearing of the matter and a route for appeal if the matter is not resolved in favor of the taxpayer. A proposed assessment which is not protested within the time prescribed by statute is final and absolute. A denied claim for refund for which a demand for hearing is not filed within the time prescribed by statute is forever barred.

(c) Letters of protest of a proposed assessment must be filed within sixty (60) days of the issue date indicated on the proposed assessment pursuant to the provisions of 68 O.S. § 221(C). Letters of protest must be filed with the taxing division, either online through OkTAP via the Protest link at tax.ok.gov, by mail addressed to Oklahoma Tax Commission, Oklahoma City, OK 73194, or in person at the Taxpayer Resource Center located at 300 N. Broadway, Oklahoma City, OK 73102.

(d) Demands for hearing relating to denial of a claim for refund must be filed within sixty (60) days of the issue date indicated on the notice of denial. Demands for hearing must be filed with the taxing division, either online through OkTAP via the Demand for Hearing link at tax.ok.gov, by mail addressed to Oklahoma Tax Commission, Oklahoma City, OK 73194, or in person at the Taxpayer Resource Center located at 300 N. Broadway, Oklahoma City, OK 73102.
(e) Taxpayers may have discussions with the taxing division and submit additional documentation in an effort to resolve the matter, but such discussions and/or review of documentation does not remove the requirement or extend the deadline to file a written protest or demand for hearing within sixty (60) days of the date the assessment letter or denial of a claim for refund was issued.
(f) A taxpayer who fails to file a timely protest to a proposed assessment may, within one (1) year of the date the assessment becomes final, request the Tax Commission adjust or abate the assessment pursuant to 68 O.S. § 221(E) and the provisions of Part 7 of this Subchapter.
(g) Detailed procedural rules governing protests and demands for hearing may be found in 710:1-5-21 through 710:1-5-49, which set out rules of Practice and Procedure before the Office of the Administrative Law Judges.

710:1-5-11. Petitions for abatement [AMENDED]
(a) A petition or request for abatement or adjustment of a tax assessment is a procedure by which a taxpayer may request relief from an assessment which has become final, but which the taxpayer may show, by a preponderance of the evidence, that the assessment contested was clearly erroneous. The determination of such a petition or request is within the sole discretion of the Commission pursuant to the provisions of 68 O.S. § 221~~(c)~~(E) and is not subject to appeal.
(b) The procedures for the filing, consideration, and disposition of petitions for abatement or adjustment of a tax assessment are set out in 710:1-5-70 through 710:1-5-78.
~~(c) Procedures governing an abatement or adjustment request are exclusive and must be clearly distinguished from the procedures required for filing a timely protest of a proposed tax assessmentor a protest of a denial of a claim for refund of taxes. Tax protest procedure is governed by the provisions of 710:1-5-21 through 710:1-5-49, which set out general rules of Practice and Procedure before the Office of the Administrative Law Judges.~~

710:1-5-13. Settlement of claims or protests [AMENDED]
Settlement of disputed, unliquidated tax claims or assessments is within the discretionary authority of the Oklahoma Tax Commission pursuant to the provisions of 68 O.S. § 219. Request for settlement or offer of settlement proposal should be made to the taxing division which initiated the disputed assessment or denied the claim for refund. Settlements of final liabilities pursuant to 68 O.S. § 219.1 are governed by the provisions of Part 8 of this Subchapter.

PART 5. ADMINISTRATIVE PROCEEDINGS RELATED TO TAX PROTESTS

710:1-5-22. Commencement and numbering of a protest of a proposed assessment [AMENDED]
(a) An assessment, correction or adjustment must be issued before a taxpayher can file a protest.
(b) Protests must be commenced by filing a timely written protest with the ~~office of any Commissioner, the director of the division out of which the controversy arose, the office of the Administrative Law Judges, or the office of the General Counsel~~ taxing division, either online through OkTAP via the Protest link at tax.ok.gov, by mail addressed to Oklahoma Tax Commission, Oklahoma City, OK 73194, or in person at the Taxpayer Resource Center located at 300 N. Broadway, Oklahoma City, OK 73102. ~~In order for a protest to be considered timely, it must be filed, pursuant to Oklahoma Statutes, within sixty (60) days after the date of the mailing of the assessment, unless an extension is granted in writing within the sixty (60) day period.~~
~~(b)~~ (c) The Administrative Law Judges' Office assigns a case number of a protest of proposed assessment ~~or protest to denial of claim for refund (both called "protest" herein)~~, creates a court file, assigns a Judge and sets a day for a pre-hearing conference between the parties and the Administrative Law Judge.

710:1-5-24. ~~Protests to denials of claims for refunds~~Commencement and numbering of a demand for hearing related to a claim for refund [AMENDED]
(a) A claim for refund ~~has to~~must be denied by the taxing division before a taxpayer can file a ~~protest~~demand for hearing.
(b) Once a claim for refund is denied and the taxpayer files a ~~protest with the Tax Commission~~demand for hearing, the Administrative Law ~~Judge~~Judges' Office assigns a case number, creates a court file, assigns a Judge and ~~shall set~~sets a hearing within sixty (60) days after the filing of the ~~protest~~demand for hearing. The taxpayer shall be duly notified of time of the hearing. ~~Protests~~ Demands for hearing relating to denials of claims for refund have priority status and shall be set

for hearing at the earliest practicable date.

710:1-5-25. Content of protests, demands for hearing, and applications for hearing [AMENDED]

Protests, demands for hearing, and applications for hearing shall be filed and signed by the taxpayer, or an authorized representative, and shall set out therein:

(1) The name, address and employer's identification number, if applicable;

(2) A statement of the amount of the deficiency as determined by the Division in the proposed assessment, the nature of the tax and the amount thereof in controversy;

(3) A clear and concise assignment of each error alleged to have been committed;

(4) The argument and legal authority upon which each assignment of error is made; provided, that the applicant shall not be bound or restricted in such hearing, or on appeal, to the arguments and legal authorities contained and cited in said applications;

(5) A statement of the relief sought by the taxpayer;

(6) A verification by the taxpayer or ~~his~~the taxpayer's duly authorized agent that the statements and facts contained therein are true; and

(7) In a refund claim, an assertion as to whether the basis for the claim request is due to a mistake of law or a mistake of fact with a brief statement of the mistake.

710:1-5-28. Pre-hearing conference [AMENDED]

(a) **General provisions.** A pre-hearing conference notice is sent to the parties, usually within sixty (60) days of the filing of the protest, but not less than twenty (20) days prior to the pre-hearing conference date. The purpose of the pre-hearing conference is to get the parties together before the Administrative Law Judge to attempt to resolve the case or parts of it, early in the progression of the case, to discuss the facts, identify the legal issues, present discovery requests, make all appropriate stipulations, and to propose a procedural schedule. However, the pre-hearing conference should not serve as the parties' introduction to the case. Rather, the parties are to make contact and discuss the merits of the case prior to the scheduled pre-hearing conference.

(b) ~~**Rulings; pre-hearing conference order.** During the pre-hearing conference, the Administrative Law Judge makes all necessary rulings. After the pre-hearing conference, the Administrative Law Judge issues a pre-hearing conference order which reduces to writing the agreements reached at the pre-hearing conference.~~

~~(c)~~ **Failure to appear.** If a party fails to appear at the scheduled pre-hearing conference or to timely respond to the notice of pre-hearing conference, but has previously submitted a written request for a hearing on the protest, then a hearing will be set. If a hearing has not been requested, then the Administrative Law Judge may close the record and issue Findings, Conclusions and Recommendations based on information in the record or may request the Division to file a Verified Response. A Verified Response is a pleading filed by the attorney representing the Division, verified by the Division, which sets forth the legal and factual basis for the action taken by the Division and the response of the Division to the issues raised in the protest, and is accompanied by documentation the Division would like the Administrative Law Judge to consider in reaching a decision. If a party files a reply to the Division's Verified Response, and requests a hearing therein, then the Administrative Law Judge ~~may~~shall set the matter for hearing on the merits of the protest, and thereafter, ~~enter recommendations to the Commission in accordance with the findings~~issue Findings, Conclusions and Recommendations. If a party files a reply to the Verified Response and does not request a hearing, then the Administrative Law Judge will consider the reply in ~~making a recommendation to the Commission~~. ~~If a party fails to file a reply to the Division's Verified Response, and requests a hearing therein, then the Administrative Law Judge may set the matter for hearing on the merits of the protest, and thereafter, enter Findings, Conclusions and Recommendations~~issuing Findings, Conclusions and Recommendations. Any party aggrieved by the recommendation may proceed pursuant to 710:1-5-40.

710:1-5-29. Notice of hearing [AMENDED]

If a case is ~~not fully resolved at the pre-hearing conference, the case is~~ set for formal hearing before the Administrative Law Judge~~. Notice~~notice of the time, date and location of the hearing is sent to the parties. The parties ~~are~~may be directed to file briefs or position letters ~~(or both) in support of their positions~~, witness and exhibits lists, copies of proposed exhibits and such other documents the Administrative Law Judge deems appropriate.

710:1-5-34. Rules of evidence [AMENDED]

(a) **Rules governing; admissibility; objections.** The rules of evidence as applied in non-jury, civil cases in the district courts of this State shall be followed in administrative proceedings ~~related to tax protests~~ except when it is necessary to ascertain facts not reasonably susceptible of proof under those rules. In that event, evidence not admissible under the ~~Rules~~rules of ~~Evidence~~evidence may be admitted, if it is of a type commonly relied on by reasonably prudent persons in the conduct of their affairs. The Administrative Law Judge shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, part or all of the evidence may be received in written form if the hearing will be expedited and the interest of the parties will not be substantially prejudiced.
(b) **Certification of issues.** A party to the proceedings who objects to a ruling of the Administrative Law Judge may request and obtain certification of the issue to the Commission for a decision prior to the issuance of Findings, Conclusions and Recommendations by the Administrative Law Judge. The signatures of the requesting party and the Administrative Law Judge must be upon the certification.

710:1-5-36. Evidence by official notice [AMENDED]
(a) The Administrative Law Judge in an administrative proceeding may, regardless of whether requested by the parties, take official notice of matters which the judges of district courts of Oklahoma can judicially notice and of facts within the scope of personal knowledge or within the specialized knowledge of the Tax Commission. Such official notice must be stated on the record, and the parties must have an opportunity to contest the material noticed. A party requesting the official notice must state upon the record sufficient information to enable the Administrative Law Judge to comply with the request.
(b) If an Administrative Law Judge receives any document or other evidence from a party in connection with an administrative proceeding which the Administrative Law Judge learns has not been provided to the other party, the Administrative Law Judge shall give notice of such receipt to the party not receiving the document or other evidence and advise such party of its right to receive a copy of the document or other evidence.

710:1-5-37. Transcript of oral hearings; request for certified court reporter [AMENDED]
Testimony offered under oath, comments of counsel and the Administrative Law Judge, offers of documentary evidence and rulings made during the course of an oral hearing shall be recorded by electronic media which can be transcribed by the Administrative Law Judge's Office. A copy of the transcript of the hearing will be furnished to any party to the proceeding upon written request to the Administrative Law Judge and payment of a reasonable fee established by the Tax Commission. Upon request to the Administrative Law Judge by either party, the hearing will be recorded and transcribed by a certified court reporter. If a certified court reporter is requested, necessary arrangements for the presence of a reporter at a hearing, the cost thereof, and cost of transcribing will be borne by the requesting party who must furnish the Administrative Law Judge's Office with an original and the ~~attorney for the Commission~~opposing party with a copy~~,~~ of such transcript.

710:1-5-38. Submission of case on briefs [AMENDED]
When a taxpayer in an administrative proceeding does not request an oral hearing, or the parties agree that an oral hearing is not needed, the Administrative Law Judge will base the Findings, Conclusions and Recommendations on the ~~position letters and briefs~~pleadings submitted by the parties. The Administrative Law Judge will mail notice of a date certain for each party to submit a position letter or brief setting out ~~therein~~ the statement of facts, issues to be determined, contentions and statutory and case law relied upon to support ~~his~~the contentions of the party. The Administrative Law Judge may schedule a conference between the parties if it is deemed necessary to clarify the positions of the parties.

710:1-5-38.1. Motion for summary disposition [AMENDED]
A party may file a motion for summary disposition on any or all issues on the ground that there is no substantial controversy as to any material fact. The procedures for such motion are as follows:
(1) The motion for summary disposition shall be accompanied by a concise written statement of the material facts as to which the movant contends no genuine issue exists and a statement of argument and authority demonstrating that summary disposition of any or all issues should be granted. The moving party shall verify the facts to which such party contends no genuine controversy exists with affidavits and evidentiary material attached to the statement of material facts.
(2) If the ~~protest~~case has been set for hearing, the motion shall be served at least twenty (20) days before the hearing date unless an applicable scheduling order issued by the Administrative Law Judge establishes an earlier deadline. The motion shall be served on all parties and filed with the Office of the Administrative Law Judge.

(3) Any party opposing summary disposition of issues shall file with the Administrative Law Judge within fifteen (15) days after service of the motion a concise written statement of the material facts as to which a genuine issue exists and the reasons for denying the motion. The adverse party shall attach to the statement evidentiary material justifying the opposition to the motion, but may incorporate by reference material attached to the papers of the moving party. All material facts set forth in the statement of the movant which are supported by acceptable evidentiary material shall be deemed admitted for the purpose of summary disposition unless specifically controverted by the statement of the adverse party which is supported by acceptable evidentiary material.
(4) The affidavits that are filed by either party shall be made on personal knowledge, shall show that the affiant is competent to testify as to the matters stated therein, and shall set forth matters that would be admissible in evidence at a hearing. A party challenging the admissibility of any evidentiary material submitted by another party may raise the issue expressly by written objection or motion to strike such material.
(5) If the taxpayer has requested a hearing, the Administrative Law Judge will issue a notice to the parties scheduling the motion for a hearing limited to oral argument. If the taxpayer has not requested a hearing, the Administrative Law Judge will rule on the motion based on the submission of the parties, including the motion, opposition to the motion, and attachments thereto.
(6) If the Administrative Law Judge finds that there is no substantial controversy as to the material facts and that one of the parties is entitled to a decision in its favor as a matter of law, the Judge will grant summary disposition by issuing Findings of Fact, Conclusions of Law, and Recommendations. Such Findings of Fact, Conclusions of Law and Recommendations are subject to review by the Commission pursuant to OAC 710:1-5-10, 710:1-5-40 and 710:1-5-41. If a motion for summary disposition is denied, the Administrative Law Judge will issue an order denying such motion.
(7) If the Administrative Law Judge finds that there is no substantial controversy as to certain facts or issues, the Judge may grant partial summary disposition by issuing an order which specifies the facts or issues which are not in controversy and directing that the action proceed for a determination of the remaining facts or issues. If a hearing of factual issues is required, evidentiary rulings in the context of the summary procedure shall be treated as rulings in limine. Any ruling on partial summary disposition shall be incorporated into the Findings of Fact, Conclusions of Law, and Recommendations issued at the conclusion of the proceedings before the Administrative Law Judge.

710:1-5-40. Options available to parties after action by Administrative Law Judge [AMENDED]

~~The~~Unless otherwise provided in these rules, the following options are available to parties to an administrative proceeding ~~related to a tax protest~~ after issuance of an unfavorable recommendation:

(1) **Motion for rehearing or motion for reconsideration; content; replies; time limitations.** Within fifteen (15) days following mailing of the Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge, any party to the proceedings may file a motion for rehearing or a motion for reconsideration with the Administrative Law Judge. The opposing party may reply to a motion for rehearing or a motion for reconsideration within fifteen (15) days after mailing of the motion for rehearing or motion for reconsideration. A party's request shall be reviewed on the basis of the content presented therein and not solely on the style of the party's motion.
(2) **Rehearing procedure.** If a party elects to file a motion for rehearing, that party will be precluded upon rehearing, should the motion be granted, from raising as error any issue not set forth in the motion. If a motion for rehearing is granted, the proposed Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge are vacated pending rehearing. If the motion is overruled, the original proposed Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge shall be deemed issued on the date the motion is overruled. If a rehearing is granted, notice will be issued to the parties setting out the date, time and place of the hearing.
(3) **Reconsideration procedure**. A motion for reconsideration must specify each ground upon which the party alleges the findings to be erroneous. If a motion for reconsideration is granted, the original proposed Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge are vacated. If the motion is overruled, the original proposed Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge shall be deemed issued on the date the motion is overruled.
(4) **Grounds for granting motion for rehearing**. A motion for rehearing may be granted on any of the following, although such list is illustrative and not exclusive:
(A) Newly-discovered evidence which could not, with reasonable diligence, have been discovered and produced at the hearing on the matter.

(B) Need for additional evidence to develop the facts essential to proper decision.

(C) Additional evidence necessary to address conclusions of law not contemplated prior to the Findings of Fact, Conclusions of Law and Recommendations of the Administrative Law Judge being issued.

(5) **Grounds for granting motion for reconsideration**. A motion for reconsideration may be granted on any of the following, although such list is illustrative and not exclusive:

(A) Need for further consideration of the issues and the evidence.

(B) A showing that issues not previously considered ought to be examined in order to properly dispose of the matter.

(C) Need for application of statute, rule or caselaw to the facts.

(6) **Application for en banc hearing before Commission.** If a motion for rehearing or reconsideration is denied, the aggrieved party may, within fifteen (15) days following mailing of such denial, file an application for oral argument before the Tax Commission en banc. If a motion for hearing en banc is granted, the case will be heard by the Commissioners sitting together as a ~~decision making~~decision-making body.

(7) **En banc hearing procedure.** Any party may apply for a hearing en banc before the Commissioners whether or not he/she moved for rehearing or reconsideration before the Administrative Law Judge. If a motion for rehearing or reconsideration before the Administrative Law Judge is not filed, any party requesting a direct appeal to the Commission en banc, must file said motion for a hearing en banc within fifteen (15) days of the mailing of the Administrative Law Judge's findings. The application must specify each ground upon which the party alleges the Findings, Conclusions and Recommendations to be erroneous. The opposing party may reply to a motion for hearing en banc within fifteen (15) days after mailing of the motion for hearing en banc. Should the application be granted, the moving party will be precluded from raising as error any issue not set forth in the application for a hearing en banc.

(8) **Granting of hearing en banc; filing of briefs; time limitations.** If such application for oral argument is granted, the Commissioners will set a date, time and place for the hearing and notice will be given to each side by mail at least twenty (20) days in advance of the hearing. Typewritten briefs must be submitted to the Commissioners at least fourteen (14) days prior to such hearing, or as otherwise directed by the Commission. Time limits for oral arguments will be set by the Commissioners at the time of the hearing.

(9) **Exhaustion of administrative remedies.** Although taxpayers must exhaust all administrative remedies before ~~appealing to the Oklahoma Supreme Court, or if appropriate to a Federal court~~filing an appeal, it is not necessary to move for reconsideration or rehearing or to apply for a hearing en banc to exhaust administrative remedies. ~~All that is necessary for exhaustion is to pursue a protest until the Commissioners issue a final decision in the form of an order.~~

(10) **Commission decision commences appeal time.** The time for filing an appeal commences upon issuance of a final order by the Commissioners for which an appeal is permitted by statute. Neither a motion for rehearing or reconsideration nor an application for a hearing en banc will be granted after a final ~~decision has been made and an~~order has been issued by the Commissioners. Therefore, a motion for rehearing or reconsideration or an application for a hearing en banc filed after the Commissioners have issued a final order will not serve to stay the time to appeal~~ to the Supreme Court~~.

710:1-5-43. Exceptions to the requirement for exhausting administrative remedies [AMENDED]

The taxpayer must exhaust the administrative remedies prescribed by law prior to appealing ~~to the Supreme Court~~ from an order of the Tax Commission, except in cases involving Constitutional issues as outlined in Title 68 O.S. § 226(c). (See, Cimarron Industries, Inc. v. Oklahoma Tax Commission, 1980 OK 190, 621 P.2d 539 ~~(Okla. 1980)~~.)

710:1-5-44. Computation of time in pending administrative proceedings [AMENDED]

When filing documents in ~~an~~a pending administrative proceeding ~~related to a tax protest~~, the following provisions apply:

(1) **General provisions.** In computing any period of time, begin on the day after the act, event, or default and conclude on the last day of the computed period, unless it be a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday.

(2) **Filing; evidence of filing.** Documents required to be filed are considered filed on the date of personal service of such documents or upon the date of the postmark showing date mailed on the envelope containing such documents and must show a date on or before the last day of filing as defined hereinabove.

(3) **Use of certified or registered mail.** If the document is sent by United States registered mail, the date of registration of the document shall be treated as the postmarked date. If the document is sent by United States certified mail and the sender's receipt is postmarked by the postal employee, the date of the United States postmark on such receipt shall be treated as the postmark date of the document. Thus, the risk that the document will not be postmarked on the day that it is deposited in the mail may be overcome by the use of registered mail or certified mail.

710:1-5-45. Service of documents in pending administrative proceedings [AMENDED]

Service of any document in ~~an~~a pending administrative proceeding may be accomplished by personal delivery or by mailing such document addressed to the party or the party's authorized representative at the last known address, postage prepaid. In the alternative, upon written consent of the party filed in the administrative proceeding, service of any document may be made by electronic mail to the address provided by the party or the party's authorized representative. The document shall indicate on its face by Certificate of Service or ~~of~~ Mailing that copies have been served on parties of record.

710:1-5-46. Dismissal of case [AMENDED]

(a) **Voluntary dismissal.** A ~~protestant~~taxpayer may dismiss his or her protest or demand for hearing, or the ~~tax~~taxing division whose action or proposed action has been ~~protested~~formally challenged by protest or demand for hearing may withdraw its action or proposed action, without a motion therefor, at any time prior to the entry of a final order by the Commission.

(b) **Dismissal for mootness.** "Moot", for purposes of this Subchapter means that a case presents no actual controversy or that the issues have ceased to exist. A ~~protest~~case that is or has become moot may be dismissed by the Commission or by the Administrative Law Judge on their own motion or on the motion of a party. At least fifteen (15) days' notice of the motion or intent to dismiss shall be given to all parties, who shall have the opportunity to respond and show cause why the ~~protest~~case should not be dismissed. A dismissal by the Administrative Law Judge is ~~appealable to~~subject to review by the Commission in the same manner as ~~appeals from~~ other rulings by the ~~ALJ~~Administrative Law Judge.

(c) **Receipt of untimely protest or demand for hearing.** The Commission is without jurisdiction to consider a protest or demand for hearing that is not filed within the time provided by statute. Upon receipt of a protest that was untimely filed, in lieu of transmitting the matter to the Office of Administrative Law Judges, the taxing division shall notify the taxpayer in writing that the assessment has become final pursuant to 68 O.S. § 221(C), of further options for the taxpayer to have the timeliness determination reviewed, and of adjustment/abatement provisions contained within 68 O.S. § 221(E). Upon receipt of a demand for hearing that was untimely filed, in lieu of transmitting the matter to the Office of Administrative Law Judges, the taxing division shall notify the taxpayer in writing that the demand for hearing was untimely filed, of further options for the taxpayer to have the timeliness determination reviewed, and that the claim for refund is barred pursuant to 68 O.S. § 227(D).

(d) **Dismissal for lack of jurisdiction.** ~~The Tax Commission is without jurisdiction to consider a protest that is not filed within the time provided by statute.~~ The question of the Commission's jurisdiction to consider a protest or demand for hearing may be raised at any time, by a party, the Administrative Law Judge, or the Commission itself. Questions as to the authority, propriety, or timeliness of ~~the tax division's~~a proposed assessment, denial of a claim for refund or other action or proposed action of the Division shall not be raised by a motion to dismiss, but shall be raised as defenses to such action or proposed action~~, as a part of or addition to the protest~~by the Division.

~~(d)~~ (e) **Motion to dismiss.** A motion ~~filed by a party to dismiss~~seeking dismissal of a protest or demand for hearing for lack of jurisdiction, or a notice by the Administrative Law Judge or the Commission of intent to dismiss a ~~protest~~case on jurisdictional grounds, shall state the reasons therefore, shall be filed in the case, and shall be mailed to all parties or their authorized representatives. The motion or notice of intent to dismiss shall be set for hearing, which shall not be less than fifteen (15) days after the filing of such motion or notice of intent, at which time any party opposing such motion or notice of intent may appear and show cause why the ~~protest~~case should not be dismissed. Notice of the date, time and place of the hearing shall be mailed to the parties or their representatives along with the motion or notice of intent to dismiss.

710:1-5-47. Burden of proof [AMENDED]

In all administrative proceedings, unless otherwise provided by law, the burden of proof shall be upon the ~~protestant~~taxpayer to show in what respect the action or proposed action of the Tax Commission is incorrect. If the ~~protestant~~taxpayer fails to prove a prima facie case, the Administrative Law Judge may recommend ~~that~~ the Commission deny the ~~protest~~relief sought solely upon the grounds of failure to prove sufficient facts which would entitle the ~~protestant~~taxpayer to the requested relief.

710:1-5-49. Survival and abatement of protests and demands for hearing [AMENDED]

No protest or demand for hearing pending before the Tax Commission shall abate by the death of the protestant or claimant. Consideration of such a ~~protest~~case shall proceed according to the following:

(1) **Death of protestant where no hearing has been requested.** If a taxpayer dies subsequent to the filing of a protest and no oral hearing has been requested, the Commission shall proceed without further notice to examine the merits of the protest and enter an order in accordance with its findings.

(2) **Death of protestant or claimant prior to hearing.** If a taxpayer has requested a hearing as provided by law but dies before such hearing, and the Commission is apprised of such death, notice of the proceedings and any upcoming hearing shall be mailed to taxpayer's address as last given in connection with the ~~protest~~ proceeding, and addressed to taxpayer, taxpayer's estate, or taxpayer's personal representative. Taxpayer's personal representative or persons who demonstrate a legal interest in taxpayer's estate shall be given ~~a~~an opportunity to appear and to be heard in connection with the ~~protest~~ proceedings. If, after such notice, there is no appearance or substitution by such persons in the ~~protest~~ proceeding~~s~~, the ~~protest~~case shall not be dismissed or decided as by default, but the merits of the ~~protest~~case shall be examined and an order confirming, modifying, or vacating the prior action or proposed action shall be entered~~, as in a case where no hearing has been requested~~.

(3) **Death of protestant or claimant after hearing or submission of case.** If a taxpayer dies after a requested hearing or after the matter has been submitted for decision, findings, conclusions and a recommendation as to the final disposition of taxpayer's ~~protest~~case may be entered by the Administrative Law Judge, and a final order may be entered by the Commission, although the personal representative of the taxpayer or other person has not been substituted as a party to the proceeding. Notice of the findings, conclusions and recommendation of the Administrative Law Judge and of the Commission's final order shall be given to the taxpayer's personal representative or other such person who has demonstrated a legal interest in the estate of the deceased taxpayer and who has requested such notice.

(4) **Substitution of personal representative.** Taxpayer's personal representative may be substituted for the taxpayer on motion of a party with notice to the representative, and shall be substituted for the taxpayer upon application by the representative. [See**:** OTC Order No. 96-02-13-017]

PART 7. ABATEMENT OF ERRONEOUS TAX ASSESSMENT

710:1-5-70. Purpose [AMENDED]

The provisions of this Part are provided to taxpayers who wish to request adjustment or abatement of an assessment of the Oklahoma Tax Commission which has already become final. [See**:** 68 O.S. § 221~~(c)~~(E)]

710:1-5-71. When an assessment becomes final [AMENDED]

(a) In the event the person to whom a proposed assessment is issued acquiesces in the changes reflected on the proposed assessment, or fails to file a written protest within the sixty (60) days after the ~~mailingof the proposed assessment~~date the proposed assessment is issued (or any extensions allowable by Statute that have been granted by the Division), the proposed assessment becomes final.

(b) In cases in which an extension has been granted for filing a protest, the proposed assessment becomes final at the expiration of the period as extended by the Division if no protest is filed.

710:1-5-72. Request for adjustment or abatement [AMENDED]

(a) **Untimely "protest" construed as request for abatement.** Every written statement "protesting" a proposed assessment which is ~~received~~filed after the expiration of sixty (60) days from the ~~mailing of the proposed assessment~~date the proposed assessment is issued, or after the expiration of any written extension granted by the Division, shall be processed as a request for an adjustment or abatement of the assessment. [See also 710:1-5-46(c)]

(b) **Manner in which timeliness determined.** A request for adjustment or abatement filed beyond the time provided by 68 O.S. § 221(E) shall be automatically denied by the taxing division. Timeliness of the filing of a request for adjustment or abatement of the assessment shall be determined ~~by~~using the date of the first filing with the Director of the ~~Division~~taxing division out of which the controversy arose, ~~the office of the Administrative Law Judges~~, the office of the General Counsel, or the Commission.

(c) **Abatement request does not extend period in which proposed assessment may be timely protested.** A request for adjustment or abatement of an assessment does not extend the time in which a written protest can be timely filed. No request for adjustment or abatement of an assessment filed after a proposed assessment becomes final will be construed as amending the time in which a protest can be filed and a request for hearing submitted.

PART 8. SETTLEMENT OF TAX LIABILITY

710:1-5-88. Effect of a Settlement Agreement [AMENDED]

(a) **Effect of pending Settlement Agreement.**

(1) Filing an application for settlement does not constitute the filing of a protest of a proposed assessment or a demand for hearing related to a denial of a claim for refund, or extend the time to file a protest ~~a proposed assessment~~or demand for hearing. Filing an application for settlement does not constitute the taking of an appeal ~~to the Oklahoma Supreme Court~~, nor extend the time to take an appeal ~~to the Supreme Court~~. Filing an application for settlement does not place a taxpayer in compliance for purposes of renewing a professional license.

(2) If taxpayer is on an existing repayment plan, the taxpayer must continue to make payments until the application for a Settlement Agreement is either accepted or denied. Payments made pursuant to an existing repayment plan will not be considered a part of the amount offered in the agreement.

(3) Collection activities may continue during the review process, however, the Commission may suspend its collection efforts if the interests of the State will not be compromised. If there is any indication that the taxpayer filed the settlement offer simply to delay collection of the tax or that the delay would interfere with collecting the tax, the Commission will immediately resume collection efforts.

(4) Interest and penalty will continue to accrue on any unpaid tax debt while the settlement is being considered.

(b) **Effect of accepted Settlement Agreement.**

(1) A Settlement Agreement relates to the entire liability of the taxpayer and all questions of such liability are conclusively settled thereby.

(2) Neither the Commission nor the taxpayer shall, upon acceptance of the proposed Settlement Agreement, be permitted to revise the agreement except by reason of the following:

(A) Falsification or concealment of facts or assets by the taxpayer; or

(B) Mutual mistake of a material fact concerning the basis for a Settlement Agreement; or

(C) Assets were fraudulently transferred prior to the agreement or were liquidated during the review process; or

(D) Taxpayer failed to comply with the terms of the agreement.

(3) Settlement of a civil liability does not constitute a settlement of a criminal liability concerning the tax period in question.

(4) Tax liens will be released only after an application for a Settlement Agreement is accepted and the amount offered is paid in full. If the amount of the tax liability to be abated exceeds Twenty-five Thousand Dollars ($25,000.00), the taxpayer is also required to provide to the Commission a certified copy of Oklahoma County District Court approval of the Settlement Agreement before tax liens will be released.

710:1-5-92. Exclusivity of request for settlement of tax liability [AMENDED]

Procedures governing settlement of final tax liabilities, pursuant to this Part, are exclusive and must be clearly distinguished from procedures required for the filing of a timely protest of a proposed tax assessment or a ~~protest of~~timely demand for hearing relating to a denial of a claim for refund of taxes as set out in 710:1-5-21 through 710:1-5-49. The procedures for the filing, consideration, and disposition of petitions for abatement or adjustment of a tax assessment pursuant to the provisions of 68 O.S. § 221~~(c)~~(E) are set out in 710:1-5-70 through 710:1-5-78. Procedures for settlement of disputed, unliquidated tax claims or assessments are set out in 710:1-5-13.

PART 9. PROCEEDINGS RELATED TO PERMITS AND LICENSES [AMENDED]

710:1-5-100. Show cause hearings relating to license or permit cancellation [AMENDED]

When a ~~Tax Division~~taxing division contests the taxpayer's compliance with State tax laws or Commission ~~Rules~~rules, the ~~Division~~taxing division may cause notice to be issued to the taxpayer requiring ~~him~~the taxpayer to appear before the Administrative Law Judge or an Administrative Hearing Officer to show why ~~his~~the taxpayer's license or permit should not be cancelled. The notice shall ~~contain a date certain for the hearing~~provide the owner of the license or permit twenty (20) days' notice of date and time of the hearing by registered or certified mail, return receipt requested. Failure to appear at the hearing may result in the cancellation of license or permit. The taxpayer may represent himself or herself or be represented by an attorney, an accountant or other representative approved by the Commission. The taxpayer

is to bring all reports and payments for delinquent taxes, penalty and interest to the hearing. Evidence and testimony of witnesses may be presented at the hearing.

710:1-5-101. Protest of refusal to issue, extend or reinstate license or permit [NEW]
(a) The applicant of any license or permit shall be given notice in writing of any refusal of a taxing division to issue or reinstate the license or permit for which the application was filed. If the applicant disagrees with the refusal, the applicant may file a written protest of the refusal. Letters of protest of a refusal to issue or reinstate a license or permit must be filed within sixty (60) days of the issue date indicated on the notice pursuant to the provisions of 68 O.S. § 212(C).
(b) Letters protesting a refusal to issue or reinstate a license or permit must be filed with the taxing division which issued the notice of refusal to issue or reinstate, either online through OkTAP via the License or Permit Protest link at tax.ok.gov, by mail addressed to Oklahoma Tax Commission, Oklahoma City, OK 73194, or in person at the Taxpayer Resource Center located at 300 N. Broadway, Oklahoma City, OK 73102. Letters protesting the refusal to issue or reinstate a license or permit must be signed by the applicant or authorized agent of the applicant and state the reasons the license or permit should be issued. The letter of protest may include a request for hearing.
(c) If a hearing is requested, the applicant shall be given no less than ten (10) days' notice of the hearing. Evidence and testimony of witnesses may be presented at the hearing.
(d) The tax protest and demand for hearing procedures outlined in 710:1-5-21 through 710:1-5-48 are not applicable to proceedings relating to permits and licenses governed by the provisions of 710:1-5-100 and 710:1-5-101.

PART 10. BUSINESS COMPLIANCE PROCEEDINGS

710:1-5-114. Closure Order [AMENDED]
(a) If a noncompliant taxpayer fails to timely and fully exercise one of the options to avoid business closure outlined in paragraphs (1) through (4) of subsection (b) of Section 710:1-5-113, or to comply with the terms of an installment payment agreement pursuant to Section 710:1-5-115, the Tax Commission will issue a Closure Order.
(b) Once a Closure Order has been issued, the taxpayer must file outstanding reports and pay all taxes, interest, penalties and fees due and owing in addition to posting a surety bond as provided in 68 O.S. § 210 before being allowed by the Tax Commission to operate the business which was the subject of the Closure Order.

[OAR Docket #24-637; filed 7-1-24]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 10. AD VALOREM

[OAR Docket #24-708]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
710:10-1-4. Limitation of the fair cash value on homestead property of qualified owners; and additional homestead exemption [AMENDED]
AUTHORITY:
68 O.S. §§ 203 and 2898; Oklahoma Tax Commission
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 1, 2023
COMMENT PERIOD:
January 2, 2024 through February 2, 2024
PUBLIC HEARING:
February 8, 2024
ADOPTION:
February 13, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 23, 2024

LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Section 710:10-1-4.8 has been amended to reflect the provisions of House Bill 1008X (2023) which increases the income eligibility ceiling for additional homestead exemption qualification to gross household income not to exceed $30,000.
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

710:10-1-4. Limitation of the fair cash value on homestead property of qualified owners; and additional homestead exemption [AMENDED]
(a) The procedures and requirements set out in this Section shall be used to implement the limitation of the valuation on homestead property of qualified owners for ad valorem purposes and the additional homestead exemption:
(b) For purposes of qualifying for the senior valuation limitation and/or the additional homestead exemption **"gross household income"** means the gross amount of income of every type, regardless of the source, received by all persons occupying the same household, whether such income was taxable or nontaxable for federal or state income tax purposes, including pensions, annuities, federal Social Security, unemployment payments, public assistance payments, alimony, support money, workers' compensation, loss-of-time insurance payments, capital gains and any other type of income received, and excluding gifts. The term "gross household income" shall not include any veterans' disability compensation payments, or the amount of any federal stimulus or relief payments related to the COVID-19 virus.
(c) **"Senior valuation limitation"** means the implementation of Oklahoma Constitution, Article 10, Section 8C, which directed county assessors to limit the fair cash value of the homestead property of any qualified person who has made proper application. The applicant's property must be a valid homestead property, with proper evidence of a homestead or an application made in 1997 or subsequent years. As with any homestead, the general statutes for homestead qualification

apply to the limitation. Only one homestead, and by extension, only one limitation is permitted in any one year. The limitation applies only to the occupied homestead property and may not be applied to non-homestead property. [**See:** 68 O.S. §§ 2888, 2889, 2890, 2893].

(1) **Relationship to exemptions and other programs.** The senior valuation limitation is available to qualified owners in addition to participation in the circuit breaker and additional homestead exemption. Availability of the senior valuation limitation **is** not dependent upon the county's compliance status with the State Board of Equalization.

(2) **Qualified owner.** The taxpayer must be at least 65 the year before the senior valuation limitation is approved, and the applicant's total household annual income for the previous year must not exceed the amount as provided in the Oklahoma Constitution, Article 10, Section 8C. The income threshold for the gross household income from all sources for an individual head of household under this Section shall not exceed the amount determined by the United States Department of Housing and Urban Development to be the estimated median income for the preceding year for the county or metropolitan statistical area which includes such county. The Tax Commission shall provide this information to each county assessor each year, as soon as it is available.

(3) **Application; qualification; duties of assessor; right of appeal.** In order to be eligible for the senior valuation limitation, the individual must apply at the county assessor's office by completing form OTC 994, Application for Property Valuation Limitation and Additional Homestead Exemption. The application must be made between January 1 and March 15. The limitation will be in effect for the tax year in which the application is made and approved, based on the current year valuation.

(A) For the limitation to be valid, form OTC 994, Application for Property Valuation Limitation and Additional Homestead Exemption, must be completed in its entirety as to income, age, ownership, and other information.

(B) The county assessor has the right and duty to review the information provided, ask any necessary questions, request documentation of age, income, or other information.

(C) The county assessor shall deny any application that is inaccurate, incomplete, inadequately documented, or otherwise invalid pursuant to this Section.

(D) The county assessor may request assistance from the Oklahoma Tax Commission in determination of income qualifications under 68 O.S. § 2890.

(E) The taxpayer may appeal any denial of a senior valuation limitation application by the county assessor to the county board of equalization in the same manner as an appeal of the denial of a homestead exemption.

(4) **Review of valuation for error.** The county assessor should review the valuation of the property for clerical errors, incorrect physical characteristics, or other material error affecting valuation in order to protect the taxpayer. This review shall not include a revaluation of the property solely because it may be below fair cash value.

(5) **Physical improvements to property.** If a physical improvement is made to the property, such as a room addition, additional square footage, garage, out buildings, enclosed garage, or similar improvement, the improvement shall be valued in the same manner as these improvements are presently valued. This additional valuation shall be added to the limited value of the property before the construction occurred. If improvements are added to the property, the fair cash value shall be increased by the amount attributable to the addition. The new total value is then limited again, so long as the owner and property remain qualified. Physical additions or changes that are considered normal maintenance, such as normal repairs, minor re-modeling, roof repair or insulation, minor energy efficiency improvements, or retro fit improvements such as wheelchair ramps to provide access to the property, are not generally considered physical improvements affecting the valuation limitation.

(6) **Duration of, and conditions which terminate the limitation.** The senior valuation limitation is valid on the property as long as the taxpayer owns and occupies the property and title to the property is not transferred, changed, or otherwise modified. If the taxpayer fails to own and occupy the property or if title to the property is transferred, changed, or conveyed to another person, the senior valuation limitation shall expire. It is then the responsibility of the county assessor to value the property at fair cash value consistent with constitutional provisions, statutes and applicable rules. If the person's gross household income from all sources exceeds the amount provided in the Oklahoma Constitution, Article 10, Section 8C, the senior valuation limitation shall expire and the value of the property shall be subject to the three percent limitation increase for that year.

(7) **Instances in which tax amount may increase, despite limitation.** The senior valuation limitation applies to the valuation, however; tax increases may occur under the specific situations outlined as follows:

(A) If an additional millage such as a bond issue or other levy is added;

(B) If judgment is rendered against the county and a judicial order directs an additional levy; or,

(C) If the county voters adopt a measure increasing the assessment percentage within the county under the authority of Section 8, Article 10, of the Oklahoma Constitution.

(8) **Additional homestead exemption."Additional homestead exemption"** means an exemption in addition to the amount of the homestead exemption authorized and allowed in Section 2889 of Title 68, to the extent of One Thousand Dollars ($1,000.00) of the assessed valuation on each homestead of heads of households whose gross household income from all sources for the preceding calendar year did not exceed ~~Twenty-Five~~ Thirty Thousand Dollars ~~($25,000.00)~~ $30,000.

(A) To qualify for the additional homestead exemption, the individual must apply at the county assessor's office by completing form OTC 994, Application for Property Valuation Limitation and Additional Homestead Exemption.

(B) The application must be made on or before March 15 or within thirty (30) days of taxpayer's receipt of a County Assessor Notice of Increase in Valuation of Real Property form (OTC 926) is later. [68 O.S. § 2890(C)].

[OAR Docket #24-708; filed 6-30-24]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 10. AD VALOREM

[OAR Docket #24-636]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 7. Manufacturing Facilities
710:10-7-2.2. Exemption requirements for qualified manufacturing and research and development facilities established, expanded or acquired [AMENDED]
AUTHORITY:
68 O.S. §§ 203 and 2902; Oklahoma Tax Commission
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
January 30, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 2, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:

N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amendment to Section 710:10-7-2.2 conforms to statutory language in 68 O.S. § 2902 relating to the wage threshold requirement of employees of certain manufacturing facilities.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 7. MANUFACTURING FACILITIES

710:10-7-2.2. Exemption requirements for qualified manufacturing and research and development facilities established, expanded or acquired [AMENDED]

(a) **Definitions**. The following words and terms, when used in this Section shall have the following meanings unless the context clearly indicates otherwise:

(1) **Manufacturing facilities** means manufacturing facilities as defined in 68 O.S. § 2902(B)(1).

(2) ***Facility or facilities*** *means, except as otherwise provided by Section 2902 of Title 68 of the Oklahoma Statutes, and includes the land, building, structures, and improvements used directly and exclusively in the manufacturing process. Effective January 1, 2022, and for each calendar year thereafter, for establishments which have received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of Title 68 of the Oklahoma Statutes, or facilities engaged in manufacturing activities defined or classified in the NAICS Manual under Industry Nos. 311111 through 339999, inclusive, but for no other establishments, facility and facilities means and includes the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process*. [68 O.S. § 2902(B)(2)].

(3) ***Research & development*** *means activities directly related to and conducted for the purpose of discovering, enhancing, increasing or improving future or existing products or processes or productivity*. [68 O.S. § 2902(B)(3)].

(4) **Base payroll** means total payroll for the calendar year the construction, acquisition, or expansion assets are first placed in service and the subsequent four (4) calendar years of eligibility.

(5) **Initial payroll** means payroll for the calendar year immediately preceding the initial construction, acquisition or expansion. In the event initial payroll is not comprised of a complete year's payroll, the amounts reported must be computed to arrive at an annual figure.

(6) **New direct job** means the term "new direct job" as defined in 68 O.S. § 3603, without the requirement to qualify for incentive payments pursuant to the Oklahoma Quality Jobs Program Act.

(b) **Qualification or statutory requirements.** To qualify for exemption facilities other than those discussed in subsections (c) and (d) must meet the requirements mandated by statute and summarized in (1) through ~~(5)~~(6) of this subsection:

(1) Facilities must satisfy the requirement of being new, expanded, or acquired.

(2) The investment cost of the construction, acquisition or expansion of the manufacturing facility must be Two Hundred Fifty Thousand Dollars ($250,000.00) or more within the calendar year in which the construction, acquisition or expansion occurred. The investment cost of the construction, acquisition or expansion of the manufacturing facility must be Five Hundred Thousand Dollars ($500,000.00) or more with respect to assets placed into service during calendar year 2022. For subsequent calendar years, the investment required shall be increased annually by a percentage equal to the previous year's increase in the Consumer Price Index-All Urban Consumers ("CPI-U") and such adjusted amount shall be the required investment cost in order to qualify for the

exemption authorized by 68 O.S. § 2902. The Oklahoma Department of Commerce shall determine the amount of the increase, if any, on January 1 of each year. The Oklahoma Tax Commission shall publish on its website at least annually the adjusted dollar amount in order to qualify for the exemption and shall include the adjusted dollar amount in any of its relevant forms or publications with respect to the exemption. Investment Cost shall not include the cost of direct replacement, refurbishment, repair or maintenance of existing machinery or equipment, except that "investment cost" shall include capital expenditures for direct replacement, refurbishment, repair or maintenance of existing machinery or equipment that qualifies for depreciation and/or amortization pursuant to the Internal Revenue Code of 1986, as amended, and such expenditures shall be eligible as part of an "expansion" that otherwise qualifies under this section.

(3) Base payroll for the calendar year the assets are placed in service must be increased over initial payroll by at least Two Hundred Fifty Thousand Dollars ($250,000.00) if the facility is located in a county with a population of less than seventy-five thousand (75,000) persons according to the most recent federal decennial census or by at least One Million Dollars ($1,000,000.00) if the facility is located in a county with a population of seventy-five thousand (75,000) or more, according to the most recent federal decennial census. For the subsequent four years of eligibility, base payroll must be maintained in an amount equal to, or greater than, the base payroll amount established for the calendar year the assets are first placed in service. ~~With respect to any entity making an application for the exemption authorized by this Section on or after January 1, 2023, the establishment making application for exempt treatment of real or personal property acquired or improved beginning January 1, 2022, and for any calendar year thereafter, the entity shall be required to pay new direct jobs, as defined by 68 O.S. § 3603 for purposes of the Oklahoma Quality Jobs Program Act, an average annualized wage which equals or exceeds the average wage requirement in the Oklahoma Quality Jobs Program Act for the year in which the real or personal property was placed into service. The Oklahoma Tax Commission may request verification from the Oklahoma Department of Commerce that an establishment seeking an exemption for real or personal property pays an average annualized wage that equals or exceeds the average wage requirement in effect for the year in which the real or personal property was placed into service. It shall not be necessary for the establishment to qualify for incentive payments pursuant to the Oklahoma Quality Jobs Program Act, but the establishment shall be subject to the wage requirements of the Oklahoma Quality Jobs Program Act with respect to new direct jobs in order to qualify for the exempt treatment authorized by this section.~~

(A) To determine initial and base payroll, the Tax Commission must verify all payroll information through the Oklahoma Employment Security Commission (OESC) utilizing reports filed with the OESC for the applicable calendar years. [**See**: 68 O.S. § 2902(C)(4)].

(B) The amount of increased payroll shall include payroll for full-time-equivalent employees in this state who are employed by an entity other than the facility which has qualified to receive an exemption pursuant to the provisions of this Section and who are leased or otherwise provided to the facility, if such employment did not exist in this state prior to the start of initial construction or expansion of the facility.

(C) A manufacturing facility shall have the option of excluding certain components from its payroll. Manufacturing facilities electing to exclude either of the options in (i) or (ii) of this subparagraph, shall document the election by an attached addendum to the application at time of filing which states in detail any payroll exclusions. (**See**: 68 O.S. § 2902(C)(4)

(i) Payments to sole proprietors, members of partnerships, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company, or stockholder employees of a corporation who own at least ten percent (10%) of the stock in the corporation may be excluded from payroll.

(ii) Nonrecurring bonuses, exercise of stock option or stock rights, or other nonrecurring, extraordinary items included in total payroll numbers as reported by the OESC may be excluded from payroll. Nonrecurring bonuses shall not include additional wages or other compensation paid on the basis of length of service.

(D) A manufacturing concern which does not meet the amount of increased payroll shall submit to the Tax Commission, with the initial application year of exemption, an affidavit, signed by an officer. The signed affidavit must state that from the start of initial construction, acquisition, or expansion, to the completion of said construction, acquisition, or expansion, or for three (3) years, whichever occurs first, the establishment or expansion of the facility will result in a net increase of the required base payroll. When the increased payroll requirement is met, the affidavit will be considered satisfied and no longer in effect.

(4) The facility will offer within one hundred eighty (180) days of the date of employment, a basic health benefit plan to the full-time employees of the facility. [**See:** 68 O.S. § 2902(C)(4)(b)] Calculation of the number of employees shall be made in the same manner as required pursuant to 68 O.S. § 2357.4 for an investment tax credit.

(5) Entities shall be subject to the wage requirements of the Oklahoma Quality Jobs Program Act with respect to new direct jobs. If an entity making application for the exemption set forth in this Section adds workers as new direct jobs at the manufacturing facility, the entity must pay those new direct jobs an average annualized wage which equals or exceeds the average wage by county required by the Oklahoma Quality Jobs Program Act, up to the maximum state threshold wage, for the year in which the real or personal property was placed into service.

(A) On each exemption application for a group of assets, the entity shall provide a list or schedule of new direct jobs by job title and annual salary. For subsequent calendar years, the list or schedule shall include new direct jobs added that year and those new direct jobs that have been maintained from previous years within the five-year exemption period.

(B) Each year, the list of new direct jobs added or maintained at the manufacturing facility will be tracked to determine if the total new direct jobs meet the average annualized wage requirement for the year the assets were placed into service.

(C) The three-year affidavit referenced above in (b)(3)(D) of this Section does not apply to the new direct jobs wage requirements set forth in the Oklahoma Quality Jobs Program Act.

(6) A manufacturing facility requesting an exemption must hold title to real or personal property~~,~~ or have an equity interest in real or personal property.

(c) **Distribution facilities; qualification requirements.** For applications received after November 1, 2007, establishments primarily engaged in distribution as defined under industry Numbers 49311, 49312, 49313 and 49319 and Industry Sector Number 42 of the NAICS Manual latest revision, must meet all criteria required by statute and outlined in (4), (5) and ~~(5)~~(6) of subsection (b) and the following paragraphs:

(1) Initial capital investment of at least Five Million Dollars ($5,000,000.00);

(2) Employment of at least one hundred (100) full-time-equivalent employees, as certified by OESC;

(3) Wages and salaries which equal or exceed the average wage requirements in the Oklahoma Quality Jobs Program Act for the year in which the real property was placed into service; and

(4) Commencement of construction on or after November 1, 2007, to be completed within three (3) years from the date of commencement of construction. [**See**: 68 O.S. § 2902(B)(1)(e)].

(d) **Computer data processing, data preparation or information processing services provider; exemptions and qualification requirements.** Computer data processing, data preparation or information processing services providers classified in U.S. Industry Number 518210 of the North American Industrial Classification System (NAICS) Manual, 2017 revision, are eligible for exemption as outlined below:

(1) **Real and personal property exemption**. Except as otherwise provided by this subsection, any new, acquired, or expanded computer data processing, data preparation, or information processing services provider as described in subsection (d) of this Section may apply for real and personal exemptions under 68 O.S. § 2902 for each year in which new, acquired, or expanded capital improvements to the facility are made for assets placed in service not later than December 31, 2021.

(2) **Personal property exemption**. An establishment described by this subsection, the primary business activity of which is outlined in Industry No. 518210 of the NAICS Manual, 2017 revision, that has applied for and been granted an exemption for personal property at any time within five (5) years prior to November 1, 2021, may apply for exemption for items of eligible personal property to be located within improvements to real property and such real property and improvements having been exempt from ad valorem taxation prior to November 1, 2021 pursuant to 68 O.S. § 2902 if such personal property is placed in service not later than December 31, 2036. No additional personal property of such establishment placed in service after such date shall qualify for the exempt treatment otherwise authorized pursuant to this paragraph.

(3) **Exemption qualification requirements.** To qualify for exemption outlined in paragraphs (1) and (2) of this subsection, an eligible establishment as classified under this subsection must meet the following requirements:

(A) Net increase in annualized payroll of the applicant at any facility or facilities of the applicant in this state of at least Two Hundred Fifty Thousand Dollars ($250,000.00), which is attributable to the capital improvements, or

(B) Net increase of Seven Million Dollars ($7,000,000.00) or more in capital improvements, while maintaining or increasing payroll at the facility or facilities in this state which are included in the application, and

(C) ~~the~~The facility offers, or will offer within one hundred eighty (180) days of the date of employment of new employees attributable to the capital improvements, a basic health benefits plan to the full-time-equivalent employees of the facility, which is determined by the Department of Commerce to consist of the elements specified in subparagraph b of paragraph 1 of subsection A of Section 3603 of this title or elements substantially equivalent thereto.

(D) The wage requirements of the Oklahoma Quality Jobs Program Act with respect to new direct jobs as set forth in paragraph (b)(5) of this Section.

(e) **Wind electric generation facility; exclusion as manufacturing facility.** Effective January 1, 2017, an entity engaged in the generation of electric power by means of wind, as described in the North American Industry Classification System No. 221119, shall not be defined as a qualifying manufacturing concern for purposes of the exemption authorized pursuant to Section 6B of Article X of the Oklahoma Constitution or qualify as a manufacturing facility as defined in this Section. While facilities which qualified for exemption pursuant to the filing of an exemption application before 2018 will be allowed to claim the exemption for any periods remaining in the five (5) years provided all qualification requirements are met, no initial application for exemption shall be filed by or accepted from an entity engaged in electric power generation by means of wind on or after January 1, 2018.

(f) **Review of facility eligibility.** To confirm eligibility, the Tax Commission may request any information from the applicant or require verification of any information as needed. Failure to produce or allow inspection of all information requested within thirty (30) calendar days of written notification may result in denial of the exemption application.

(g) **Requirements for acquired existing facility.** An acquired existing facility must be unoccupied for a period of twelve (12) months prior to acquisition for initial qualification. [**See:** Art. 10, Section 6B, Okla. Const. and 68 O.S. § 2902(A)].

(h) **Transfer of exemption.** If the ownership of a qualified facility currently enrolled in the exemption program changes during the five-year exemption period, the exemption shall continue in effect for the balance of the five-year period, so long as all other qualifications are maintained.

[OAR Docket #24-636; filed 7-1-24]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 20. ALCOHOL AND MIXED BEVERAGES

[OAR Docket #24-639]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 5. Mixed Beverages
710:20-5-8. Liability and audit of mixed beverage tax permit holder for gross receipts tax upon sale, preparation or service of all alcoholic beverages purchased or received [AMENDED]
AUTHORITY:
68 O.S. § 203; 37A O.S. § 5-135; Oklahoma Tax Commission
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
January 30, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 2, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amendment to Section 710:20-5-8 conforms the rule with legislative changes to Section 5-135 of Title 37A consistent with SB 1035 (2023) which reinstates the compliance percentage parameters for the amount of gross receipts tax paid on spirits, wine, and beer in regard to an audit conducted by the Tax Commission. It also provides for a maximum deduction allowance of 10% for product losses attributable to breakage, spillage, theft and other occurrences. (37A O.S. § 5-135).
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 5. MIXED BEVERAGES

710:20-5-8. Liability and audit of mixed beverage tax permit holder for gross receipts tax upon sale, preparation or service of all alcoholic beverages purchased or received [AMENDED]

(a) **Liability in general.** Every mixed beverage tax permit holder or any other person transacting business subject to the gross receipts tax shall be liable for the tax upon the gross receipts from such beverages (on the basis of the number of drinks available for sale, preparation, or service from the total alcoholic beverages received). Each permit holder or other person shall be liable for the gross receipts tax upon any and all disposition by his or her agents or employees or any other persons on the premises of the mixed beverage tax permit holders or other person, except upon seizure or other disposition of the alcoholic beverage by employees of the ABLE Commission, Tax Commission, or other law enforcement agencies in the execution of their official duties. [**See:** 37A O.S. § 5-105]

(b) **Audit procedures.**

(1) Upon audit of the books and records of a mixed beverage establishment for gross receipts tax, it shall be assumed that spirits have been dispensed at the average rate of one and one-half fluid ounce, except for drinks with recipes calling for more than one type of spirit or for double portions of spirits, or upon reasonable evidence of a different rate of use.

(2) Wines will be presumed to have been dispensed at the average rate of six ounces (6 oz.) per serving. The Tax Commission may use an average rate greater or less than those set out in this rule upon reasonable evidence of a different rate of use.

(3) An audit may be conducted to determine if the correct amount of tax payable has been collected. The taxpayer will be deemed in compliance if the audit reveals that the amount of tax collected is:

(A) For spirits, within eighty-four percent (84%) to one hundred sixteen percent (116%) of the amount of tax payable.
(B) For wine, within ninety percent (90%) to one hundred ten percent (110%) of the amount of tax payable.
(C) For beer sold at draft and not in original packages, within eighty-six percent (86%) to one hundred fourteen percent (114%) of the amount of tax payable.
(D) For beer in original packages, within ninety-five percent (95%) to one hundred five percent (105%) of the amount of tax payable. [See: 37A O.S. § 5-135]

(4) Under circumstances where a taxpayer is deemed to be in compliance as described in (b)(3) of this Section, the taxpayer is still responsible for paying one hundred percent (100%) of the total gross receipts tax levied in 37A O.S. § 5-105(A) which was collected and/or reported but not remitted to the Tax Commission.

(5) In addition, a deduction not to exceed ten percent (10%) except as provided in this paragraph may be allowed from the gross receipts tax liability determined by an audit or other investigation of the books and records of a mixed beverage tax permit holder, for alcoholic beverages that are:

(A) consumed in food as verified by the audit;
(B) destroyed due to breakage for which the permit holder has retained the container; or that portion thereof that has the unbroken seal; or for partial bottles destroyed by breakage for which the permit holder has completed a breakage affidavit listing the date of the occurrence, the brand and type of liquor, the size bottle, the approximate amount left in the bottle by 1/10ths, and the cause of the breakage. The affidavit shall be signed by the permit holder and two witnesses;
(C) stolen or destroyed by a disaster such as a fire or flood, provided that reasonable evidence is provided to support a claim. Reasonable evidence might include a copy of a police or sheriff's crime report; or an insurance claim detailing the inventory destroyed by brand, size, and type of liquor;
(D) not consumed, and exist or existed, at the close of a taxable period in question, provided that the amount and nature of the unconsumed inventory has been verified by agents of the Tax Commission, ABLE Commission, or verified by invoice to a mixed beverage permittee or wholesaler approved to purchase the inventory by the ABLE Commission. Partially filled bottles which are not included in a transferred inventory should be verified by a Tax Commission or ABLE Commission agent or agents.

(6) Deductions in excess of ten percent (10%) may be allowed for properly documented product losses or other occurrences outlined in subparagraphs (A) through (D) of paragraph (3).

~~(4)~~(7) If an establishment was selling alcoholic beverages prior to the starting date of the audit period being used by the Commission in its audit, the establishment shall be required to furnish the Commission with a beginning inventory of all liquor, wine, and beer on hand if an ending inventory is offered for audit purposes. When the permittee is unable or unwilling to furnish such an inventory, then no beginning or ending inventories shall be considered for the audit period used and the audit will be conducted solely on the taxpayer's purchases made during the audit period.

[OAR Docket #24-639; filed 7-1-24]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 40. FRANCHISE TAX

[OAR Docket #24-658]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
710:40-1-6. Accounting and reporting; suspension and reinstatement [AMENDED]
AUTHORITY:
Oklahoma Tax Commission; 68 O.S. § 203
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:

January 17, 2024
ADOPTION:
January 30, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 2, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Section 710:40-1-6 has been amended to implement the provisions of House Bill 1039X (2023) which eliminates the Oklahoma franchise tax levied under 68 O.S. §§ 1203 and 1204, effective for tax year 2024 and subsequent tax years.
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

710:40-1-6. Accounting and reporting; suspension and reinstatement [AMENDED]
(a) **General provisions**. For tax year 2023 and previous tax years, a franchise tax is levied upon every corporation, association, joint-stock company and business trust organized under the laws of Oklahoma, or organized and existing by virtue of the laws of some other state, territory or country, doing business in Oklahoma,
(b) **Filing.** On or before July 1, 2014, each corporation, regardless of its prior filing status, must file either a franchise tax return or an election to use the corporation's income tax return due date as the due date for payment and filing of the corporation's franchise tax return.
~~(b)~~(c) **Franchise tax returns due July 1, 2014.** A corporation filing its franchise tax return on July 1, 2014 shall use the corporation's 2013 income tax year balance sheet in preparing the return, regardless of whether the corporation is a calendar year filer or has an income tax year end other than December 31.
~~(c)~~(d) **Franchise tax returns due on income tax year end.** A corporation who elects on July 1, 2014 to use its income tax return due date for payment and filing of the corporation's franchise tax return shall use the corporation's 2013 income tax year balance sheet in preparing the return. The franchise tax return is due the fifteenth (15th) day of the third month following the close of the corporation's 2013 tax year; however, if the due date for the filing of the corporation's 2013

income tax return is prior to July 1, 2014, the due date for the filing of its franchise tax return shall be July 1, 2014.
~~(d)~~(e) **Franchise tax returns due in subsequent years.** Franchise tax returns due July 1, 2015 or, pursuant to an election to use the corporation's income tax year end in 2015 shall use the corporation's 2014 income tax year balance sheet in preparing the corporation's franchise tax return.
~~(e)~~(f) **Good standing certificates.** A corporation shall be issued a good standing certificate (required for filings with the Secretary of State) during the period following the date on which the corporation's franchise tax return is due until the date the corporation's franchise tax return is delinquent.
~~(f)~~(g) **Delinquency date.** The date on which the annual franchise tax return and payment is considered to be delinquent is:

(1) For franchise tax returns due July 1, the return is delinquent if not filed and paid on or before the next September 15.
(2) Except as provided in (c) of this Section, corporations who have elected to file franchise tax returns and pay franchise tax on their corporate income tax due date, the return is delinquent if not filed and paid no later than thirty (30) days after the due date established under the Internal Revenue Code. However, if the corporate income tax return due date has been extended, the franchise tax due date shall also be extended. This extension of the due date for filing the return will not serve to extend the date on which the payment of the tax is due.
(3) For those taxpayers that remitted the maximum amount of tax pursuant to Section 1205 for the preceding tax year, the tax levied by 68 O.S. Section 1201 et seq. shall become due and payable on May 1 of each year, and the return is delinquent if not filed and paid on or before the ensuing June 1.

~~(g)~~(h) **Suspension and reinstatement.** [**See:** 68 O.S. § 1212] The Order issued by the Tax Commission reinstating or reviving the charter or other instrument of organization of a previously suspended organization shall state the effective date of the reinstatement or revival. The effective date shall be the date on or by which, as determined by the Commission, the corporation, association, or organization met all requirements for reinstatement, including:

(1) Payment of tax;
(2) Filing of returns;
(3) Filing of officer lists~~,~~ ; and
(4) Meeting other requirements as determined by the Commission under applicable law.

~~(h)~~(i) **Parent-subsidiary corporate relationships.** In the case of parent-subsidiary corporate relationships, both the parent corporation and any subsidiary corporations shall use the same accounting method as was employed for the last Oklahoma income tax return.
~~(i)~~(j) **Consolidated Oklahoma income tax returns.** When a consolidated Oklahoma income tax return has been filed for the parent/subsidiary corporate group, all subsidiary corporations shall file Oklahoma franchise tax returns based upon the method of accounting used by each subsidiary, provided that any undistributed income which is reported on the subsidiary corporation's Oklahoma franchise tax return may be eliminated from the computation on the parent's Oklahoma franchise tax returns.

[OAR Docket #24-658; filed 7-1-24]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 45. GROSS PRODUCTION

[OAR Docket #24-659]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
710:45-1-2. Definitions [AMENDED]
Subchapter 3. Payment; Remittance; Refunds
710:45-3-11. Minimum requirements for making claims for rebates, refunds, or credits [AMENDED]
Subchapter 9. Exemptions and Exclusions
Part 3. FRAC OIL
710:45-9-10. Frac oil exclusion [AMENDED]
710:45-9-11. Gas lift exclusion [NEW]
Part 17. ECONOMICALLY AT-RISK LEASES

710:45-9-81. Definitions [AMENDED]
710:45-9-83. Certification [AMENDED]

AUTHORITY:
68 O.S. §§ 203, 1001 and 1013; Oklahoma Tax Commission

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023

COMMENT PERIOD:
December 15, 2023 through January 17, 2024

PUBLIC HEARING:
January 17, 2024

ADOPTION:
January 30, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 2, 2024

LEGISLATIVE APPROVAL:
N/A

LEGISLATIVE DISAPPROVAL:
N/A

APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024

EFFECTIVE:
November 1, 2024

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:
N/A

GUBERNATORIAL APPROVAL:
N/A

REGISTER PUBLICATION:
N/A

DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:
N/A

INCORPORATING RULES:
N/A

AVAILABILITY:
N/A

GIST/ANALYSIS:
The amendments to Sections 710:45-1-2, 710:45-3-11, 710:45-9-10, 710:45-9-81 and 710:45-9-83 add definitions and fully set forth existing policy relating to brine leases and the gas lift exclusion. The promulgation of new Section 710:45-9-11 sets out the requirements for claiming the gas lift exclusion. [68:1001, 1009 & 1010]

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF NOVEMBER 1, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

710:45-1-2. Definitions [AMENDED]

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

"**Brine**" means subterranean saltwater and all its constituent parts and chemical substances therein contained, including, but not limited to bromine, magnesium, potassium, lithium, boron, chlorine, iodine, calcium, strontium, sodium, sulphur, barium, or other chemical substances produced with or separated from such saltwater. Brine produced as an incident to the production of oil or gas, unless such brine is saved or sold for the purposes of removing chemical substances therefrom, shall not be considered brine for the purposes of this Chapter.

"**Brine lease**" means any Oklahoma Tax Commission assigned production unit number for the purpose of reporting solution gas produced as the result of the production of brine and injection of effluent.

"First purchaser" means any person who purchases or is entitled to purchase any product subject to the Oklahoma ~~Gross Production Tax~~gross production tax from the producer or operator of a lease located in this state.

"**Gas lease**" means any Oklahoma Tax Commission assigned production unit number with a gas to oil production ratio of fifteen thousand (15,000) cubic feet of natural gas or more to one (1) barrel of oil.

"**Gas lift**" means any method of lifting liquid to the surface by injecting gas into the well bore from which production is obtained.

"Gross value of the production" means the gross proceeds realized from the first sale of such production, including the actual cash value and all premiums otherwise given to or reserved for the producer and all interest owners of such production, without any deduction for costs whatsoever.

"Month" means calendar month, the period from the first day of the month to the last day, according to the established order of the division of time into years, months, weeks and days commonly recognized in the United States.

"**Oil lease**" means any Oklahoma Tax Commission assigned production unit number with a gas to oil production ratio of less than fifteen thousand (15,000) cubic feet of natural gas to one (1) barrel of oil.

"**Operator**" means the person who is duly authorized and in charge of the development of a lease or the operation of a producing property.

"Person" means any person, firm, association, corporation or other legal entity.

"**Solution gas**" means all gas produced from brine wells from the brine common source of supply within the unit area. [See**:** 68 O.S. §1001.2]

SUBCHAPTER 3. PAYMENT; REMITTANCE; REFUNDS

710:45-3-11. Minimum requirements for making claims for rebates, refunds, or credits [AMENDED]

(a) **General provisions.** Adjustments to ~~Gross Production Taxes~~gross production taxes previously paid may be made by filing a claim for refund or by claiming credit on a subsequent return. In either case, the claim must include the information and conform to the procedures described in this Section. All claims for refund or credits taken remain subject to audit.

(b) **~~Frac oil exclusion~~ Exclusions.** Procedures to be followed in computing, documenting, and claiming the gas lift exclusion ~~for~~and the frac oil exclusion used in qualified well completions may be found in Part 3 of Subchapter 9 of this Chapter.

(c) **Claims for refund.** Claims for refunds of ~~Gross Production Tax~~gross production tax must include the information and conform to the procedures described in this subsection.

(1) **Claims filed within twelve months of production.** Claims for refund of gross production tax which are filed within the twelve-month period immediately following the month of production to which the claim pertains, must include:

(A) A letter stating the reason for the request, amount requested, by ~~Gross Production Tax and Petroleum Excise Tax~~gross production tax and petroleum excise tax, the period of time covered, and the Oklahoma Tax Commission's assigned production unit numbers; and,

(B) Amended reports (Type 3) for each month, county, and product code. The amended report must note the "As Paid" volumes, values, and taxes; followed by entries reflecting "Should Have Paid" volumes, values, and taxes; and page totals must accurately support the amount of the refund request.

(2) **Claims not filed within twelve months of production.** Claims for refund of gross production tax not postmarked within the twelve-month period immediately following the month of production to which the claim pertains, must include:

(A) A letter stating the reason for the request, amount requested, by ~~Gross Production Tax and Petroleum Excise Tax~~gross production tax and petroleum excise tax, the period of time covered, and the Oklahoma Tax Commission's assigned production unit numbers;

(B) Original source documents, provided to the operator, which may include, but not be limited to: run, settlement, purchase, sales, or metered volume statements, frac affidavits, frac invoices, check stubs, worksheets, pricing bulletins, and any information necessary to verify an exemption, such as BLM lease numbers. Original and all correcting statements pursuant to the claim for refund must be submitted;

(C) Amended reports (Type 3) for each month, county, and product code, reversing the "As Paid" volumes, values, and taxes, then entering the "Should Have Paid" volumes, values, and taxes. Page totals must reflect the amount of the refund request; and,

(D) All supporting documentation required by statute or Commission rules.

(d) **Claims for credit.** For claims pertaining to production months July 2002 and later, credits may be applied to the current month's tax liability, provided that:

(1) Amended reports (Type 3) for each month, county and product code are filed. The amended reports must note the "As Paid" volumes, values, and taxes; followed by entries reflecting "Should Have Paid" volumes, values and taxes; and page totals must accurately support the amount of the credit requested. The amended reports must be submitted along with the current production month's Gross Production Tax Report.

(2) The prior month's adjustments do not exceed the current production month's liability;

(3) Magnetic media submissions conform to established magnetic media guidelines; and,

(4) Supporting documents are retained and available for submission upon request of the Oklahoma Tax Commission.

(e) **Exceptions and limitations.** Neither the refund procedures described in (c) of this Section, nor the expedited filing procedures for claiming a credit described in (d) of this Section may be used for claiming an abatement or ~~frac oil~~ exclusion, nor for any claims for refund submitted by a non-remitting party.

SUBCHAPTER 9. EXEMPTIONS AND EXCLUSIONS

PART 3. FRAC OIL

710:45-9-10. Frac oil exclusion [AMENDED]

(a) When load or frac oil is used in well completions (not produced from same lease) by injection into a formation for fracturing purposes, and the ~~Gross Production~~gross production and ~~Petroleum Excise Taxes~~petroleum excise taxes have been paid on the injected load or frac oil, each barrel so injected is not considered oil produced from wells where recovered and an exclusion from ~~Gross Production Tax~~ gross production tax may be claimed for oil so used, as follows:

(1) The load or frac exclusion for each lease may only be recovered within one year of the date of injection into the same lease.

(2) Monthly lease load or frac oil exclusions shall not exceed monthly total lease production.

(3) Load or frac oil exclusion value, for exclusion purposes, is the lesser of the price paid for the load or frac oil or the posted field gravity price of the oil produced on the lease where recovered.

(4) Recovery of the load or frac oil exclusion must begin with the first production after injection. For any load or frac oil purchased, after date of injection and prior to receipt of ~~affidavit, OTC Form 317~~Affidavit for OCC Credit and/or OTC Tax Exclusion (OTC Form 317), the taxpayer must file an amended report and request a credit memo or tax refund. After receipt of ~~affidavit,~~ OTC Form 317, taxpayer may show load or frac oil exclusion on his monthly tax report.

(5) The producer must complete the operator's portion of the affidavit and supply the purchaser with ~~the affidavit,~~ OTC Form 317~~,~~ and supporting invoices.

(6) The purchaser shall complete his portion of ~~the affidavit,~~ OTC Form 317.

(7) A notarized legible copy of ~~the affidavit,~~ OTC Form 317~~;~~ must accompany each report for refund or credit memo and each monthly report that reflects a claim for load or frac oil exclusion.

(8) All load or frac oil exclusions claimed on future reports which do not comply with the provisions of this Section will be disallowed.

~~(9)~~(b) "**Lease**", as used in this Section, means the Oklahoma Tax Commission ~~Production Unit Number~~production unit number assigned to the particular unit.

710:45-9-11. Gas lift exclusion [NEW]

(a) When a volume of natural gas is injected as an external source of pressure to supplement formation gas (not produced from the same lease), and the gross production and petroleum excise taxes have been paid on the injected gas, each MCF injected is not considered gas produced from the well when recovered, and an exclusion from gross production tax may be claimed for gas used, subject to the following provisions:

(1) The injected volume or gas lift for each lease may only be recovered within one year of the date of injection into the same lease.

(2) Monthly injection volume or gas lift exclusions shall not exceed monthly total lease production.

(3) Injection or gas lift value, for exclusion purposes, is the lesser price paid for the injection or gas lift volume or the posted price of the gas produced on the lease where recovered.

(4) Recovery of the injection or gas lift exclusion must begin with the first production after injection. For any gas lift purchased, after date of injection and prior to receipt of Affidavit for OCC Credit and/or OTC Tax Exclusion (OTC Form 317), the taxpayer must file an amended report and request a credit memo or tax refund. After receipt of OTC Form 317, the taxpayer may show injection or gas lift exclusion on his monthly tax report.

(5) The producer shall complete the operator's portion of OTC Form 317 and provide the purchaser a copy of the form along with supporting invoices.

(6) The purchaser shall complete his portion of OTC Form 317.

(7) A notarized legible copy of OTC Form 317 must accompany each report for refund or credit memo and each monthly report that reflects a claim for gas lift exclusion.

(8) All injection or gas lift exclusions claimed on future reports which do not comply with the provisions of this Section will be disallowed.

(b) "**Lease**", as used in this Section, means the Oklahoma Tax Commission production unit number assigned to the unit.

PART 17. ECONOMICALLY AT-RISK LEASES

710:45-9-81. Definitions [AMENDED]

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

"**Active production days**" means any day in which oil or natural gas was produced by the lease as reflected in the daily production logs.

"**Economically at-riskoil or gas lease**" means beginning with calendar year 2022, and each year thereafter:

(A) Any Tax Commission assigned production unit number classified as an oil lease that operated at a net profit which is less than the total gross production tax remitted for such lease during the tax reporting year with an average production volume per well of ten (10) barrels of oil and the monthly average price of oil for the year was less than Fifty Dollars ($50.00) per barrel; and

(B) Any Tax Commission assigned production unit number classified as a gas lease that operated at a net loss or a net profit which is less than the total gross production tax remitted for such lease during the tax reporting year with an average production volume per lease of sixty (60) MCF of natural gas per day and the "monthly average price of gas" for the year was less than Three Dollars and Fifty Cents ($3.50) per MMBtu.

~~"**Gas Lease**" means any Tax Commission assigned production unit number with a gas to oil production ratio of fifteen thousand (15,000) cubic feet of natural gas or more to one (1) barrel of oil.~~

~~"**Oil Lease**" means any Tax Commission assigned production unit number with a gas to oil production ratio of less than fifteen thousand (15,000) cubic feet of natural gas to one (1) barrel of oil.~~

710:45-9-83. Certification [AMENDED]

(a) **General provisions.** This Section establishes criteria for determining whether an operator of an economically at-risk oil lease has met the required conditions to apply for an exemption from gross production tax levied on such and establishes a procedure for the issuance of the refund.

(b) **Application to Oklahoma Tax Commission; determination; approval**. Any operator who desires to make application to have a lease certified as being economically at-risk shall submit electronically through the Oklahoma Taxpayer Access Point (OKTAP) the following information:

(1) Properly completed Form 329;

(2) Division Order(s) supporting the applicable royalty interest payments made during the claim period;

(3) An itemization of all expenses claimed as lease operating expenses;

(4) For leases governed by a Joint Operating Agreement (JOA) a copy of the JOA, including the accounting procedures attached to the JOA showing the base rate used to escalate per the Council of Petroleum Accounts Societies (COPAS) for the overhead expense; and
(5) Copies of the daily production reports for the calendar year applied.

(c) **Qualifying lease.** A qualifying lease shall include a gas lease and an oil lease but shall not include a brine lease.

(d) **Net profit/loss calculation.** For each calendar year, subtract from the gross revenue of the lease any severance taxes, royalty payments, and lease operating expenses, including expendable workover and recompletion costs for the applicable calendar year, and overhead escalation costs up to the maximum overhead percentage allowed by the Council of Petroleum Accountants Societies (COPAS). For purposes of this calculation, depreciation, depletion, and intangible drilling costs shall **not** be included.

~~(d)~~(e) **Tax Commission may require additional information.** For audit purposes, the Tax Commission may require additional information, such as copies of the operator's federal income tax return, joint interest billings, or other documentation regarding lease production or expenses.

[OAR Docket #24-659; filed 7-1-24]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 50. INCOME

[OAR Docket #24-660]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Returns and Reports
Part 1. GENERAL INFORMATION
710:50-3-4. Extension of time for filing returns [AMENDED]
Subchapter 9. Refunds
710:50-9-2. ~~When a refund is barred by statute of limitations~~Statute of limitations on refunds [AMENDED]
Subchapter 15. Oklahoma Taxable Income
Part 5. OTHER ADJUSTMENTS TO INCOME
710:50-15-69.1. Add-back of federal depreciation for Oklahoma income tax purposes [AMENDED]
Part 7. CREDITS AGAINST TAX
710:50-15-94. Volunteer firefighter credit [AMENDED]
710:50-15-103. Credit for qualified railroad reconstruction or replacement expenditures [AMENDED]
710:50-15-119. Parental Choice Tax Credit [NEW]
710:50-15-120. Caring for Caregivers Credit [NEW]
Subchapter 17. Oklahoma Taxable Income for Corporations
Part 5. DETERMINATION OF TAXABLE CORPORATE INCOME
710:50-17-51. Adjustments to arrive at Oklahoma taxable income for corporations [AMENDED]
Subchapter 19. Oklahoma Taxable Income for Partnerships
710:50-19-5. Add-back of federal depreciation for Oklahoma income tax purposes [AMENDED]
Subchapter 21. Oklahoma Taxable Income for Subchapter "S" Corporations
710:50-21-1. Subchapter "S" corporations and 512S Oklahoma returns [AMENDED]
710:50-21-5. Add-back of federal depreciation for Oklahoma income tax purposes [NEW]
AUTHORITY:
68 O.S. §§ 203, 2357.104, 2357.801, 2358.6A; 70 O.S. § 28-102; Oklahoma Tax Commission
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
January 30, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 2, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
710:50-15-119 [NEW]
GUBERNATORIAL APPROVAL:
October 27, 2023
REGISTER PUBLICATION:
41 Ok Reg 273
DOCKET NUMBER:
23-816
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amendments to Section 710:50-3-4 and Section 710:50-9-2 implement the provisions of HB 2289 which provides that failure to pay the amount of tax due on or before the date the return is due, not including any extensions, will cause the tax to become delinquent, and any claim for refund of an overpayment of tax must be made within three years from the due date of the return, including the period of any extension of time for filing a return, or two years from the payment of the tax liability, whichever period is later, or, if no return was filed by the taxpayer, within two years from the time the tax was paid. [68:2373. 2375] The amendments to Sections 710:50-15-69.1, 710:50-17-51 and 710:50-19-5 and 710:50-21-1 and the promulgation of new Section 710:50-21-5 implement the provisions of SB 602 which amended 68 O.S. § 2358.6a, relating to qualified property. If a taxpayer elects immediate and full expensing of qualified property or qualified improvement property, any depreciation calculated and claimed pursuant to 68 O.S. § 2358.6a will in no event be a duplication of any depreciation or bonus depreciation allowed or permitted on the federal income tax return of the taxpayer. [68:2358.6A] The amendment to Section 710:50-15-94 implements the provisions of SB 747 which increased the existing income tax credits for volunteer firefighters, effective for tax year 2024 and subsequent tax years. [68:2358.7] The amendment to Section 710:50-15-103 implements the provisions of SB 17X which extended through tax year 2029 the existing credit for qualified railroad reconstruction or replacement expenditures. [68:2357.104] New Section 710:50-15-119 implements the provisions of HB 1934 which created the Oklahoma Parental Choice Tax Credit Act. [70:28-100] New Section 710:50-15-120 implements the provisions of HB 1029X which enacted the Caring for Caregivers Act and created a new income tax credit for 50% of eligible expenditures incurred by a family caregiver for the care and support of an eligible family member, effective for tax year 2024 and subsequent tax years. [68:2357.801]
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. RETURNS AND REPORTS

PART 1. GENERAL INFORMATION

710:50-3-4. Extension of time for filing returns [AMENDED]

A valid extension of time in which to file a ~~Federal Income Tax Return~~ federal income tax return automatically extends the due date of the Oklahoma ~~Income Tax Return,~~income tax return unless an Oklahoma liability is owed. A copy of the ~~Federal~~federal extension must be attached to the Oklahoma ~~Return~~return. If the due date for filing the ~~Federal Return~~federal return is not extended or if an Oklahoma liability is owed, an extension of time to file the Oklahoma ~~Return~~return may be granted only by filing OTC Form 504. Ninety percent (90%) of the tax liability must be paid by the original due date ~~for~~of the return to obtain a valid extension of time to file and avoid penalty charges for late payment. Interest will be charged from the original due date of the return.

SUBCHAPTER 9. REFUNDS

710:50-9-2. ~~When a refund is barred by statute of limitations~~Statute of limitations on refunds [AMENDED]

When an original income tax return has been filed, the statute of limitations for filing a claim for a refund of an overpayment of income tax in Oklahoma is generally three (3) years from the due date of the tax return, including any extensions of time for filing, or two (2) years from the date the tax was paid, whichever is later. If an original return has not been filed, the ~~Commission will not issue a refund on an original income tax return filed 3 years after the original due date of the return~~statute of limitations for filing a claim for a refund of an overpayment of income tax in Oklahoma is two (2) years from the date the tax was paid. A refund that is "barred by statute" cannot be used as payment on any delinquent account or applied to estimated tax. Exceptions to the statute of limitations set out in 710:50-5-13 also apply to certain refund situations. [See**:** 68 O.S. §2373]

SUBCHAPTER 15. OKLAHOMA TAXABLE INCOME

PART 5. OTHER ADJUSTMENTS TO INCOME

710:50-15-69.1. Add-back of federal depreciation for Oklahoma income tax purposes [AMENDED]

~~For tax years beginning on or after January 1, 2023, taxpayers have the option for immediate and full expensing of qualified property and qualified improvement property by deducting the full cost of these expenditures in the tax year in which the cost is incurred or the property is placed in service. [68 O.S. § 2358.6A] If this option is taken, amounts that are depreciated for federal income tax purposes shall be added back to Oklahoma taxable income in the year the depreciation is claimed. The taxpayer's decision to use immediate expensing for a qualified property or qualified improvement property in the year the investment cost is incurred is irrevocable for the property unless specifically authorized by the Oklahoma Tax Commission.~~(a) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one hundred percent (100%) bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.

(b) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.

(c) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

PART 7. CREDITS AGAINST TAX

710:50-15-94. Volunteer firefighter credit [AMENDED]

(a) **General provisions.** An income tax credit of Two Hundred Dollars ($200.00) for tax years 2005 through 2023, and Three Hundred Dollars ($300.00) for tax year 2024 and subsequent tax years is available each year for a volunteer firefighter who has completed at least twelve (12) hours toward the State Support or State Basic Firefighter or Firefighter I offered by Oklahoma State University Fire Service Training or Oklahoma Department of Career and Technology Education. After the initial year, an additional Two Hundred Dollar ($200.00) income tax credit is allowed for tax years 2005 through 2023, and Three Hundred Dollars ($300.00) for tax year 2024 and subsequent tax years for each year the volunteer firefighter has completed an additional six (6) hours of State Support or State Basic Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the State Fire Marshall Commission until such program or its equivalent is completed.

(b) **Advanced training credit.** An income tax credit of Four Hundred Dollars ($400.00) ~~each year~~for tax years 2005 through 2023, and Six Hundred Dollars ($600.00) for tax year 2024 and subsequent tax years is available each year for a volunteer firefighter who, after completing the State Support or State Basic Firefighter program:

(1) Completes at least six (6) hours of continuing education each year until the firefighter completes Intermediate or Advanced Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the State Fire Marshall Commission or its equivalent;

(2) After completion of Intermediate or Advanced Firefighter or Firefighter I, the volunteer firefighter shall complete six (6) hours of training per year to claim the tax credit;

(3) Provides documentation from the fire chief of the applicable department that the firefighter has participated in all annual training as required by federal and state authorities; and,

(4) Provides documentation from the fire chief of the applicable department that the volunteer firefighter has met the requirements under the fire department's constitution and bylaws and is a member in good standing of the department together with a record of the total number of years of service in good standing with such department.

710:50-15-103. Credit for qualified railroad reconstruction or replacement expenditures [AMENDED]

(a) **General provisions**. For tax years beginning after December 31, 2005, and ending before January 1, ~~2025,~~2030 there is a credit allowed against the tax imposed by Section 2355 of Title 68 equal to 50% of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures. [68 O.S. § 2357.104]

(b) **Definitions.** The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) **"Eligible taxpayer"** means any railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

(2) **"Qualified railroad reconstruction or replacement expenditures"** means expenditures for track maintenance, natural disasters, and reconstruction or replacement of railroad infrastructure. This includes track, roadbed, crossings, bridges, industrial leads and track-related structures owned or leased by a Class II or Class III railroad as of January 1, 2006. Qualified railroad reconstruction or replacement expenditures can also include new construction of industrial leads, switches, spurs and sidings and extensions of existing sidings by a Class II or Class III railroad.

(c) **Limitations.**

(1) The amount of the credit may not exceed the product of the number of miles of railroad track owned or leased within this state by the eligible taxpayer as of the close of the taxable year and:

(A) Five Hundred Dollars ($500.00) for tax year 2007.

(B) Two Thousand Dollars ($2,000.00) for tax years 2008 through 2019.

(C) Five Thousand Dollars ($5,000.00) for tax years 2020 through 2024.

(2) Effective for tax years beginning on or after January 1, 2016, and ending before January 1, 2020, the credit is limited to seventy-five percent (75%) of the otherwise allowable credit.

(d) **Transferability.** The credits allowed pursuant to this Section that are not used are freely transferable by written agreement, to subsequent transferees, at any time during the five (5) years following the year of qualification.

(1) **"Eligible transferee" defined.** For purposes of this subsection, an "eligible transferee" shall be any taxpayer subject to the tax imposed by Section 2355 of Title 68.

(2) **Written transfer agreement requirements.** The person originally allowed the credit and the subsequent transferee must jointly file a copy of the written transfer agreement with the Commission, within thirty (30) days of the transfer. The written agreement must contain the name, address, and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person, and the tax year or years for which the credit may be claimed.

(e) **Carryover provisions.** Any credit allowed pursuant to the provisions of this Section, to the extent not used, may be carried over in order to each of the five (5) years following the year of qualification.
(f) **Tax credit limitation**. The total amount of credits authorized by this Section used to offset tax shall be adjusted annually to limit the annual amount of credits to Two Million Dollars ($2,000,000.00) for tax years 2018 and 2019 and Five Million Dollars ($5,000,000.00) for tax year 2020 and all subsequent tax years. The Tax Commission shall annually calculate and publish a percentage by which the credits authorized by this Section shall be reduced so the total amount of credits used to offset tax does not exceed the applicable annual limit.

710:50-15-119. Parental Choice Tax Credit [NEW]
(a) **General provisions.** There is hereby created the Oklahoma Parental Choice Tax Credit Program to provide an income tax credit to a taxpayer for qualified expenses to support the education of eligible students in Oklahoma. For tax year 2024 and subsequent tax years, there shall be allowed against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes a refundable income tax credit for any Oklahoma taxpayer who incurs a qualified expense on behalf of an eligible student. [See: 70 O.S. 2023, § 28-100, et seq.]
(b) **Definitions**. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:
(1) ***"Curriculum"*** *means a complete course of study for a particular content area or grade level.*
(2) ***"Education service provider"*** *means a person, business, public school district, public charter school, magnet school, or organization that provides educational goods and/or services to eligible students.*
(3) "**Eligible student**" means a resident of Oklahoma who is eligible to enroll in a public school within the state at educational levels of pre-kindergarten through 12th grade. Eligible student shall include a student who is enrolled in and attends a private school in Oklahoma that is accredited by the State Board of Education or another accrediting association or a student who is educated pursuant to the other means of education exception provided for in 70 O.S. § 10-105(A).
(4) "**Home school tax credit**" means credits authorized pursuant to 70 O.S. 2023, § 28-101(C)(1)(b).
(5) "**Household**" means the persons who reside in the same home as and provide financial support for the eligible student as of the date the application for the tax credit is submitted.
(6) "**Oklahoma taxpayer**" means:
(A) Any person owing or liable to pay any Oklahoma tax;
(B) Any person required to file a report, a return, or remit any tax required by the provisions of any Oklahoma tax law; or
(C) Any person required to obtain a license or a permit or to keep any records under the provisions of any Oklahoma tax law. [See: 68 O.S. § 202]
(7) "**Priority consideration**" means an application will be reviewed and considered for approval before other applications received by the Tax Commission, regardless of whether the other applications were submitted on an earlier date. An application for the private school tax credit will only receive priority consideration if submitted on or before the deadline set by the Tax Commission and for an eligible student who is a member of a household in which the total federal adjusted gross income (AGI) does not exceed $150,000.
(8) "**Private school tax credit**" means credits authorized pursuant to 70 O.S. 2023, § 28-101(C)(1)(a).
(9) "**Qualified expense**" means:
(A) For the purpose of claiming the private school tax credit in subsection (c) of this Section, qualified expense means tuition and fees at a private school accredited by the State Board of Education or another accrediting association. Although not an exhaustive list fees may include enrollment, registration, or application fees; textbook fees; technology fees; activity fees; testing and assessment fees; and fees paid for school uniforms, if paid directly to the school.
(B) For the purpose of claiming the home school tax credit in subsection (d) of this Section, qualified expense means the following expenditures:
(i) *Tuition and fees for nonpublic online learning programs;*
(ii) *Academic tutoring services provided by an individual or a private academic tutoring facility;*
(iii) *Textbooks, curriculum, or other instructional materials including, but not limited to, supplemental materials or associated online instruction required by an education service provider; and*
(iv) *Fees for nationally standardized assessments including, but not limited to, assessments used to determine college admission and advanced placement examinations as well as tuition and fees for tutoring or preparatory courses for the assessments.*

(10) "**Second preceding tax year**" means the tax year occurring two taxable years prior to the tax year for which the credit application is submitted.
(11) "**Taxpayer**" means an Oklahoma taxpayer who is a biological or adoptive parent, grandparent, aunt, uncle, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible student.
(A) A foster parent, or the foster parents, shall be included within the meaning of other person with legal authority to act on behalf of an eligible student.
(B) Taxpayer shall not include a parent or the parents of an eligible student whose parental rights over the eligible student has been legally terminated.
(12) "**Warrant**" means an order for payment directing the State Treasurer to disburse funds to a designated payee. A warrant operates like a paper check.

(c) **Private school tax credit.**

(1) **Amount of credit**. If the eligible student attends or will attend a private school accredited by the State Board of Education or another accrediting association, the credit amount shall be equal to the amount of tuition and fees charged to or that will be paid by the taxpayer for attending the private school, subject to the following limitations:
(A) The maximum credit amount allowed is $7,500 if the eligible student is a member of a household in which the total federal (AGI) during the second preceding tax year does not exceed $75,000;
(B) The maximum credit amount allowed is $7,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than $75,000 but does not exceed $150,000;
(C) The maximum credit amount allowed is $6,500 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than $150,000 but does not exceed $225,000;
(D) The maximum credit amount allowed is $6,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than $225,000 but does not exceed $250,000; or
(E) The maximum credit amount allowed is $5,000 if the eligible student is a member of a household in which the total federal AGI during the second preceding tax year is more than $250,000.

(2) **Annual cap and limitation of credit.**
(A) The total amount of private school tax credits is subject to the following caps:
(i) For tax year 2024, the total amount of credits shall not exceed $150,000,000.
(ii) For tax year 2025, the total amount of credits shall not exceed $200,000,000.
(iii) For tax year 2026, and subsequent tax years, the total amount of credits shall not exceed $250,000,000.
(B) The total amount of credits allowed may be reduced pursuant to the provisions 70 O.S. 2023, § 28-101(I).

(3) **Claiming the private school tax credit**.
(A) Pursuant to 70 O.S. §28-101(C)(1)(a) for the tax year 2024 and subsequent tax years, if an Oklahoma taxpayer incurs or will incur a qualified expense on behalf of an eligible student during the tax year, the taxpayer may be eligible to claim the private school tax credit. If a taxpayer has more than one eligible student, the taxpayer may complete and submit a single application that includes each eligible student. The taxpayer shall complete and submit the application online, and attach the applicable documentation, which includes an Affidavit (Enrollment Verification Form). Taxpayer shall include the following with the application:
(i) The name, address, and social security or individual taxpayer identification number (ITIN) of the taxpayer;
(ii) The name, address, date of birth, and social security number or individual taxpayer identification number (ITIN) of the eligible student(s);
(iii) The name and address of the eligible student's parent(s) or legal guardians(s), if different from the taxpayer; and
(iv) Verification of federal AGI for the second preceding tax year for the household of which the eligible student is a member, which may include providing copies of the applicable Oklahoma income tax return(s) or federal income tax return(s). For example, if a taxpayer is applying for the private school tax credit for tax year 2024 and has not previously filed an Oklahoma income tax return or the Tax Commission cannot verify a tax return has been filed the taxpayer may be required to provide a copy of the 2022 Oklahoma income tax return

or federal income tax return of the household, even if the student did not reside in the household during that reporting period. If the household had no tax filing requirement, the taxpayer shall submit an Affidavit for No Filing Requirement and/or an Internal Revenue Service (IRS) Verification of Non-filing Letter, which provides proof from the IRS that there is no record of a filed tax form for the tax year requested.

(B) The Tax Commission will make available an Affidavit (Enrollment Verification Form) to be completed by the private school in which the eligible student is enrolled or is expected to enroll with the following information:

(i) The name, address and date of birth of eligible student.

(ii) The designated semester(s) and tax year during which the qualified expenses will be paid;

(iii) The name and address of the school;

(iv) The name and telephone number of a contact person(s) with the private school;

(v) The amount of qualified tuition and fees to be charged the taxpayer for the eligible student during the tax year.

(C) The private school tax credit shall be exclusively claimed through the submission of an application, as set out in this paragraph.

(i) The application process for tax year 2024 will commence on December 1, 2023, at 8:30 a.m. (CST). For any eligible student who is a member of a household in which the total federal AGI does not exceed $150,000, applications must be submitted to the Tax Commission on or before February 1, 2024, to receive priority consideration as authorized by 70 O.S. 2023, § 28-101(E). The application shall include qualified expenses paid or expected to be paid for tax year 2024.

(ii) If the application is approved, the credit will be paid in two installments. Each installment will be half of the amount of the anticipated private school tuition and fees the taxpayer expects to incur during the tax year based on the private school's Affidavit (Enrollment Verification Form), or half the amount of the allowable credit, whichever is less.

(iii) The application deadline is on or before December 31 of the tax year the taxpayer incurs a qualified expense on behalf of an eligible student or until the annual cap has been met, whichever occurs first.

(iv) The application process for subsequent tax years will commence at 8:30 a.m. (CST) on December 1 preceding the applicable tax year. For any eligible student who is a member of a household in which the total federal AGI does not exceed $150,000, applications must be submitted to the Tax Commission on or before February 1 of the applicable tax year to receive priority consideration as authorized by 70 O.S. 2023, § 28-101(E).

(v) If December 1 falls on a Saturday, Sunday or legal holiday, the application process will open on the next day that is not a Saturday, Sunday or legal holiday.

(D) After all timely-filed applications entitled to priority consideration have been reviewed and processed, the Tax Commission will review and process remaining applications for the credit in the order received, provided the annual cap has not been reached.

(E) Installment payments of the credit shall be made by the Tax Commission with individual warrants made payable to the taxpayer and mailed to the private school where the eligible student is enrolled or expected to enroll. The taxpayer shall restrictively endorse the warrant to the private school for deposit into the account of the school unless the tuition and fees for the eligible student have already been paid by the taxpayer.

(F) Each participating private school will respond electronically to the Tax Commission's request to verify certain information to determine if the refundable tax credit was applied toward a qualified expense during the applicable tax year. Responses to the requested information are due on or before November 1 of each year. Information requested for verification shall include the following information for each eligible student for whom the school received a credit payment for the current tax year:

(i) The name and address of the private school;

(ii) The amount of credit received by the private school on behalf of the eligible student;

(iii) Dates of attendance of the eligible student; and

(iv) The name, address and date of birth of eligible student.

(G) The credit can be claimed only for the tax year in which the qualified expenses are actually incurred. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.

(H) If a taxpayer's application for the credit it denied, the taxpayer may file an application for a hearing before the Tax Commission pursuant to the provisions of 68 O.S. § 207(c).
(I) The total federal AGI of a student's household shall be determined as follows:
(i) If the student's parents or custodians have an income tax filing status of "married, filing jointly", the federal AGI reported on the parents' or custodians' second preceding year tax return will be used.
(ii) If the student's parents or custodians have an income tax filing status of "married, filing separately", the parents' or custodians' federal AGI reported on each tax return for the second preceding tax year will be added together to determine the student's household federal AGI.
(iii) If the student's household includes any additional person that is providing financial support to the student, the additional person's federal AGI for the second preceding tax year will be added to the federal AGI of the parents or custodians for the second preceding tax year.
(J) Each private school accredited by the State Board of Education or another accrediting association, shall initially complete an online Participation Agreement with the Tax Commission. The Participation Agreement shall include:
(i) Name, address, phone number, FEIN, and website of the private school;
(ii) Contact information for the private school;
(iii) Proof of accreditation from the State Board of Education or another accrediting association; and
(iv) Other school identification information.

(d) **Home school tax credit.**
(1) If the eligible student is educated pursuant to the other means of education exception [70 O.S. § 10-105(A)] the maximum annual credit amount shall be $1,000 per eligible student.
(2) For tax year 2025, and subsequent tax years, the total amount of credits shall not exceed $5,000,000 annually.
(3) The tax credit may be claimed on the applicable tax year's Oklahoma income tax return.
(4) The credit must be claimed for the tax year in which the qualified expenses are actually incurred and paid. Where qualified expenses are incurred in excess of the allowable credit for any given tax year, the excess of qualified expenses shall not be used in claiming the credit for any other tax year.

(e) **Records**. A taxpayer claiming the Parental Choice Tax Credit shall maintain records of proof as to the qualified expenses paid for by the taxpayer. Records maintained by the taxpayer shall be subject to inspection by the Tax Commission and its duly authorized agents and employees.
(f) **Offset**. Pursuant to 68 O.S. §205.2(F) the Tax Commission shall deduct from the amount of the credit due to a taxpayer the amount of delinquent state tax, penalty, and interest thereon, which the taxpayer owes pursuant to any state tax law prior to payment of such refund. [See 68 O.S. § 205.2(F)]
(g) **Recapture**. The Tax Commission shall recapture tax credits if:
(1) The credit was claimed for expenditures that were not qualified expenses;
(2) The taxpayer has claimed an eligible student who no longer attends a private school or has enrolled in a public school for the period for which the credit was claimed; or
(3) Taxpayer fails to comply with any other provisions of 70 O.S. 2023, § 28-100, et seq.

710:50-15-120. Caring for Caregivers Credit [NEW]
(a) **General provisions**. For tax years beginning on or after January 1, 2024, a nonrefundable income tax credit is allowed in the amount of 50% for eligible expenditures incurred by a family caregiver for the care and support of an eligible family member. The amount of the credit is 50% of the eligible expenditures not to exceed Two Thousand Dollars ($2,000.00) per eligible family member. If the eligible family member is a veteran or has a diagnosis of dementia from a health care professional, the amount of the credit cannot exceed Three Thousand Dollars ($3,000.00).
(b) **Definitions.** For purposes of this Section, "**activities of daily living**", "**eligible expenditure**", "**eligible family member**", and "**family caregiver**" mean the same as these terms are defined in 68 O.S. 2023, § 2357.801(A).
(c) **Multiple caregivers**. If two or more family caregivers claim the tax credit for the same eligible family member, the maximum allowable credit shall be allocated in equal amounts between each of the family caregivers.
(d) **Verification.** OTC Form 592 must be filed with each claimant's tax return, along with any other information or documentation the Tax Commission may require, such as receipts to support the claimed expenses, proof of veteran status and/or documentation to support a diagnosis of dementia for the eligible family member.

(e) **Limitation of credit**. The total credits authorized shall not exceed One Million Five Hundred Thousand Dollars ($1,500,000.00) annually. The Oklahoma Tax Commission shall calculate and publish, by the first day of the affected year, a percentage by which the credits shall be reduced so the total amount of credits used to offset tax does not exceed One Million Five Hundred Thousand Dollars ($1,500,000.00) per year.

SUBCHAPTER 17. OKLAHOMA TAXABLE INCOME FOR CORPORATIONS

PART 5. DETERMINATION OF TAXABLE CORPORATE INCOME

710:50-17-51. Adjustments to arrive at Oklahoma taxable income for corporations [AMENDED]

The following is a partial list and not inclusive of all the allowable and unallowable adjustments that may be made to federal taxable income to arrive at Oklahoma taxable income for corporations: [**See:** 68 O.S. § 2358]

(1) **Taxes based on income.** [**See:** 68 O.S. § 2358(A)(5)]

(A) Taxes based on or measured by income shall not be allowed as a deduction.

(B) Type of taxes that are based on or measured by income are:

(i) State and Local Income Taxes,

(ii) Foreign Income Taxes, and

(iii) some Franchise Taxes that are based on or measured by income.

(2) **Federal income taxes.** Federalincome taxes are not deductible.

(3) **Federal loss carryback/carryforward.** A federal net operating loss carryover or carryback will not be utilized in determining Oklahoma taxable income. For the allowance of Oklahoma net operating loss deduction refer to (4) of this Section.

(4) **Oklahoma net operating loss carryback/carryover.** An election may be made to forego the net operating loss (NOL) carryback period. A written statement of the election must be part of the timely filed Oklahoma loss year return.

(A) **Oklahoma net operating loss.** [**See:** 68 O.S. § 2358(A)(3)]

(i) An Oklahoma NOL may be carried back or over in accordance with 26 U.S.C.A. § 172 until December 31, 1992. However, no Oklahoma NOL can be carried back to years beginning before January 1, 1981 unless there is a federal NOL carryback from the same loss year to the same carryback year.

(I) For net operating losses incurred for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2007, the loss carryback shall be for a period as allowed in the Internal Revenue Code; and

(II) For tax years beginning after December 31, 2007, and ending before January 1, 2009, the loss carryback period shall be for a period of two (2) years; and

(III) For tax years beginning after December 31, 2008, the loss carryback period shall be for a period as allowed by Section 172 of the Internal Revenue Code.

(ii) Any Oklahoma NOL carryback not allowed, due to no federal loss carryback to the same year, may still be carried back to the years beginning after December 31, 1980, or carried over until utilized, without regard to a federal loss.

(B) **Oklahoma net operating loss computation for carryback to years beginning before January 1, 1981.** The following shall apply to Oklahoma net operating loss before January 1, 1981:

(i) Consolidated federal filing: In the loss year, the percentage of the Oklahoma loss to all loss companies in the consolidation. (If no consolidated loss, there is no NOL allowable.)

(ii) Separate company federal filing: In the loss year, the percentage of the Oklahoma loss to federal loss. (If no federal loss, there is no NOL allowable.) This percentage is then applied to the federal NOL (each loss year separately) when it is taken (absorbed) on the filed federal return. The Oklahoma NOL can be used in the same Oklahoma year it is used on the filed federal return year.

(5) **Oklahoma accrued income tax.**

(A) Oklahoma will allow a deduction for Oklahoma accrued income tax. The Oklahoma accrued income tax is computed as follows:

(i) Divide the Oklahoma net income by the number 26 for tax years beginning before January 1, 1985.

(ii) Divide the Oklahoma net income by the number 21 for tax years beginning after December 31, 1984 and ending before January 1, 1990.
(iii) Divide the Oklahoma net income by the number 17.667 for tax years beginning after December 31, 1989 and ending before January 1, 2022.
(iv) Divide the Oklahoma net income by the number 26 for tax years beginning after December 31, 2021.

(B) There is no deduction for Oklahoma accrued income tax when Oklahoma net income is a loss. [**See:** 68 O.S. § 2358(A)(5)] When credits are allowed, the accrual of Oklahoma tax will not be allowed on the amount of Oklahoma taxable income that is covered by the credit, except for credits that have been acquired by transfer. The amount paid for credits that have been acquired by transfer can be used as a payment of tax for purposes of computing the deduction for Oklahoma accrued tax. Tax accrual is allowed on the amount of income for which tax is actually paid. The example in Appendix A of this Chapter shows how the accrual should be calculated. A schedule such as the example should be attached and submitted with Form 512.

(6) **Expenses allocated to nontaxable income.** 68 O.S. § 2358(A)(4) provides that deductions should be allocated to assets that may produce nontaxable income.

(A) An adjustment is required when a corporation has an investment in assets which produce income which is non-unitary, or separately allocable. Such items may include, but are not limited to, investments in subsidiaries, other corporation's bonds, U.S. Obligations or other types of securities that produce income which is excluded from Oklahoma income.

(B) A ratio is used to allocate expenses between unitary business operations and all other activities that do not produce unitary income. The manner in which this adjustment is made is as follows: A fraction, or percentage, is computed by dividing the average of investment in assets, the income from which is allocable, by the average of total assets. This percentage is then applied to certain expenses claimed on the return to arrive at the amount of expenses related to non-unitary business, and the resulting amount is added back to federal taxable income.

(C) Generally, interest expense is the only expense against which the adjustment described in subparagraph (B) of this paragraph is applied. However, facts and circumstances may indicate that other expenses should be considered in this allocation. This adjustment will be considered in all cases where deemed appropriate. [**See**: 68 O.S. § 2358(A)(4)] [See example in Appendix E of this Chapter]

(7) **Interest income.**

(A) **U.S. obligations.** Interest income from U.S. obligations is excluded from federal taxable income to arrive at Oklahoma taxable income. Interest income received from FNMA, GNMA, or the Internal Revenue Service is not income from an obligation of the U.S. government and cannot be excluded to arrive at Oklahoma taxable income.

(B) **Other interest income.**

(i) Interest income is to be directly allocated to the domiciliary situs of the taxpayer; except that interest income received from accounts receivable income shall be included in apportionable income.
(ii) There shall be added to Oklahoma taxable income, interest income on obligations of any state or political subdivision thereof which is not otherwise exempted pursuant to federal laws or laws of this State, to the extent said interest is not included in federal taxable income or adjusted gross income.

(8) **Dividends.** Dividends are to be allocated to the domiciliary situs of the taxpayer. [**See:** 68 O.S. § 2358(A)(4)(b)]

(A) For purposes of calculating Oklahoma taxable income, foreign earnings deemed repatriated pursuant to 26 U.S.C. § 965 shall be considered dividend income and shall be allocated to the domiciliary situs of the taxpayer.

(i) To the extent such income is not included in the calculation of a taxpayer's federal taxable income due to inclusion on an IRC 965 Transition Tax Statement rather than the income tax return, the income shall be included on the Oklahoma return as an addition to net taxable income.
(ii) If a taxpayer elects to make installment payments of tax pursuant to the provisions 26 U.S.C. § 965, such election may also apply to the payment of Oklahoma income tax, attributable to the income upon which such installment payments are based.

(B) For purposes of calculating Oklahoma taxable income, global intangible low-taxed income included in federal income pursuant to 26 U.S.C. § 951A shall be considered dividend income and shall be allocated to the domiciliary situs of the taxpayer.

(9) **Domestic International Sales Corporation (DISC) and Foreign Sales Corporation (FSC) Commission Expense.** Expenses incurred in producing DISC and FSC Dividend income shall be allocated on the same basis as the DISC and FSC Dividend income. [**See:** 68 O.S. § 2358(A)(4)]

(10) **Net oil and gas income.** Income or loss from oil and mining production or royalties, and gains or losses from sales of such property, shall be allocated in accordance with the situs of such property. General and administrative expenses will be allocated on the basis of Oklahoma direct expense to total direct expense. [**See**: 68 O.S. § 2358(A)(4)(a)]

(11) **Oklahoma 22% depletion.** Oklahoma depletion on oil and gas may be computed at twenty-two percent (22%) of gross income derived from each Oklahoma property during the taxable year.

(A) For tax years beginning on or after January 1, 2001, and ending on or before December 31, 2011, and for tax years beginning on or after January 1, 2014, major oil companies, as defined by 52 O.S. § 288.2(4), shall be limited to fifty percent (50%) of net income for such property (computed without allowance for depletion).

(B) During years not specified herein, the Oklahoma depletion allowance, for all taxpayers, shall not exceed fifty percent (50%) of the net income of the taxpayer (computed without allowance for depletion) from the property.

(C) The percentage depletion calculated shall not be a duplication of the depletion allowed on the federal income tax return. [**See:** 68 O.S. § 2353(10)]

(12) **Net rental income and safe harbor leasing.** The following provisions apply to the treatment of net rental income and safe harbor leasing:

(A) Net rental income is separately allocated. [**See:** 68 O.S. § 2358(A)(4)]

(B) A schedule of net rental income is required to be filed with the return showing gross income and all expenses (depreciation, repairs, taxes, interest, general and administrative expense, etc.).

(13) **Royalties; patents; copyrights.** [**See:** 68 O.S. § 2358(A)(5)]

(A) Income from patent or copyright royalties is apportionable.

(B) Income from which expenses have been deducted in producing such patent or copyright royalties in arriving at apportionable income (including the purchase of such patent or copyright royalties) shall be apportionable.

(14) **Capital gains or loss - 4797 gains or loss.**

(A) Gains (losses) from the sale or other disposition of unitary assets or any other assets used in the unitary enterprise are apportionable. [**See:** 68 O.S. § 2358(A)(5)]

(B) Gains (losses) from sale of property, the income from which is separately allocated shall also be separately allocated.

(15) **Partnership income or loss from corporate partners.**

(A) Partnership income or loss shall be separately allocated. [**See:** 68 O.S. § 2358(A)(4)]

(B) The Oklahoma distributive share of partnership income as determined under 68 O.S. § 2358 and 68 O.S. § 2362 shall be allocated to Oklahoma.

(16) **Overhead allocation.** The Commission may adjust or allocate overhead expenses to or from a parent or subsidiary, or between divisions in order to more accurately reflect the overhead expenses. [**See:** 68 O.S. § 2366]

(17) **Federal new jobs credit deduction.** For tax years beginning after December 31, 1980, the Federal New Jobs deduction is disallowed due to Oklahoma's own Investment/New Jobs Credit.

(18) **Deductions related to directly allocated income/loss.** Deductions incurred in producing income of a nonunitary nature shall be allocated on the same basis as the income. (Examples: Liquidation of subsidiaries, worthless stock loss, bad debts due subsidiaries on sale of stock, etc.) [**See:** 68 O.S. § 2358(A)(4)]

(19) **Intercompany eliminations.** There are no provisions to allow intercompany eliminations in computing the income of each company filing an Oklahoma Consolidated Return.

(20) **Other income.** Generally, other income, unless it is separately allocable under 68 O.S. § 2358(A)(4) is apportionable. [**See:** 68 O.S. § 2358(A)(5)]

(21) **Add-back of federal bonus depreciation for Oklahoma income tax purposes.** Generally, corporations claiming the federal bonus depreciation (as allowed under provisions of the federal *Job Creation and Workers Assistance Act of 2002*, the provisions of the federal *Economic Stimulus Act of 2008* or the federal *American Recovery and Reinvestment Act of 2009*) are required to add back a portion of the bonus depreciation and then claim it in later years for Oklahoma income tax purposes.

(A) Corporations filing Oklahoma income tax returns will have to add back eighty percent (80%) of any bonus depreciation claimed under provisions of the federal *Job Creation and Workers Assistance Act of 2002*, the federal *Economic Stimulus Act of 2008* or the federal *American Recovery and Reinvestment Act of 2009*). Any amount added back can be claimed in later years. Twenty-five percent (25%) of the amount of bonus depreciation added back may be subtracted in the first taxable year beginning after the bonus depreciation was added back, and twenty-five percent (25%) of the bonus depreciation added back may be deducted in each of the next three succeeding taxable years.

(B) The provisions relating to the add-back of the federal bonus depreciation apply only to C-Corporations and are not applicable to corporations which have elected to be treated as Subchapter S Corporations pursuant to 26 U.S.C. § 1361 et seq. of the Internal Revenue Code, nor to Limited Liability Companies.

(22) **Add-back of applicable Section 179 expenses.** For tax years beginning on or after January 1, 2009 and ending on or before December 31, 2009, any amount in excess of One Hundred Seventy-five Thousand Dollars ($175,000.00) which has been deducted as a small business expense under Internal Revenue Code Section 179 as provided in the federal *American Recovery and Reinvestment Act of 2009* must be added back to Oklahoma taxable income.

(23) **Add-back of federal depreciation for Oklahoma income tax purposes**. ~~For tax years beginning on or after January 1, 2023, taxpayers have the option for immediate and full expensing of qualified property and qualified improvement property by deducting the full cost of these expenditures in the tax year in which the cost is incurred or the property is placed in service. [68 O.S. § 2358.6A] If this option is taken, amounts that are depreciated for federal income tax purposes shall be added back to Oklahoma taxable income in the year the depreciation is claimed. The taxpayer's decision to use immediate expensing for a qualified property or qualified improvement property in the year the investment cost is incurred is irrevocable for the property unless specifically authorized by the Oklahoma Tax Commission.~~

(A) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one hundred percent (100%) bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.

(B) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.

(C) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

SUBCHAPTER 19. OKLAHOMA TAXABLE INCOME FOR PARTNERSHIPS

710:50-19-5. Add-back of federal depreciation for Oklahoma income tax purposes [AMENDED]

~~For tax years beginning on or after January 1, 2023, partnerships have the option for immediate and full expensing of qualified property and qualified improvement property by deducting the full cost of these expenditures in the tax year in which the cost is incurred or the property is placed in service. [68 O.S. § 2358.6A] If this option is taken, amounts that are depreciated for federal income tax purposes shall be added back to the Oklahoma distributive share of partnership income in the year the depreciation is claimed. The taxpayer's decision to use immediate expensing for a qualified property or qualified improvement property in the year the investment cost is incurred is irrevocable for the property unless specifically authorized by the Oklahoma Tax Commission.~~(a) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one hundred percent (100%) bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.

(b) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.
(c) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

SUBCHAPTER 21. OKLAHOMA TAXABLE INCOME FOR SUBCHAPTER "S" CORPORATIONS

710:50-21-1. Subchapter "S" corporations and 512S Oklahoma returns [AMENDED]
(a) A corporation having an election in effect under Subchapter S of the Internal Revenue Code shall not be subject to the Oklahoma income tax on the corporation. However, if any of the shareholders of such corporation are nonresidents of Oklahoma during any part of the corporation's taxable year, the corporation shall be taxed for such year on the nonresident shareholder's distributive share of income, unless the corporation files with its return for such year an agreement executed by each nonresident stockholder stating that such nonresident will file an Oklahoma income tax return reporting his or her portion of Oklahoma taxable income.
(b) The shareholders of a Subchapter "S" Corporation shall include in their taxable income their distributive share of such corporation's federal income, subject to the modifications as set forth in 68 O.S. §2358 and 68 O.S. §2362.
(c) ~~For tax years beginning on or after January 1, 2023, a Subchapter "S" Corporation has the option for immediate and full expensing of qualified property and qualified improvement property by deducting the full cost of these expenditures in the tax year in which the cost is incurred or the property is placed in service. [68 O.S. § 2358.6A] If this option is taken, amounts that are depreciated for federal income tax purposes shall be added back to the distributive share of such corporation's federal income in the year the depreciation is claimed. The taxpayer's decision to use immediate expensing for a qualified property or qualified improvement property in the year the investment cost is incurred is irrevocable for the property unless specifically authorized by the Oklahoma Tax Commission.~~
~~(d)~~ A Subchapter "S" corporation that files its return without including necessary nonresident shareholder agreements, shall be taxed on such nonresident(s) shareholders distributive share of income. The method of filing the return shall be irrevocable for each tax period once the return is filed. However, if a nonresident shareholder fails to file his or her individual Oklahoma income tax return the corporation will be assessed the tax.

710:50-21-5. Add-back of federal depreciation for Oklahoma income tax purposes [NEW]
(a) Taxpayers have the option to immediately and fully deduct the cost of qualified property and qualified improvement property for income tax purposes. This deduction is eligible for one hundred percent (100%) bonus depreciation and can be claimed as an expense in the tax year when the property is placed in service. This deduction remains available in subsequent years, regardless of changes to federal law related to cost recovery amortization beginning January 1, 2023.
(b) If a taxpayer chooses to immediately and fully expense qualified property or qualified improvement property, any depreciation claimed under this provision cannot duplicate the depreciation or bonus depreciation claimed on their federal income tax return. For tax returns filed on or after January 1, 2023, the taxpayer must increase their federal taxable income by the amount of depreciation received under the Internal Revenue Code for the property for which the immediate and full expensing election was made on the Oklahoma income tax return. If a taxpayer's federal taxable income is not increased as required by this provision before October 1, 2023, they must file an amended return reflecting the increase by June 30, 2024. The Tax Commission will not impose penalties or interest if a correct amended return is filed within the specified timeframe.
(c) The taxpayer's decision to recover investment costs through immediate expensing in the year of the investment or through amortization over a schedule is irrevocable, unless specifically allowed by the Tax Commission.

[OAR Docket #24-660; filed 7-1-24]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 55. MOTOR FUEL

[OAR Docket #24-711]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 8. Electric Vehicle Charging Tax
710:55-8-3. Tax rate [AMENDED]
710:55-8-4. When tax is due [AMENDED]
710:55-8-6. Charging station metering requirements [AMENDED]
AUTHORITY:
68 O.S. §§ 203 and 6504 Oklahoma Tax Commission
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
January 30, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 2, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rulemaking action amends Subchapter 8 in Chapter 55 to implement the provisions of HB 2315 [2023] relating to the electric vehicle charging tax. [68:6504, 6506 & 6508]
CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 8. ELECTRIC VEHICLE CHARGING TAX

710:55-8-3. Tax rate [AMENDED]

(a) **Electric vehicle charging tax.** Beginning January 1, 2024, a tax of three cents ($0.03) per kilowatt hour or an equivalent thereof as determined by the Oklahoma Corporation Commission is levied on the electric current used to charge or recharge the battery or batteries of an electric vehicle.

(b) **Tax base.** The amount of tax shall not include any fees or charges associated with the method for payment for the charging service, but shall be based only upon the rate of tax and the electricity transferred during the charging process.

(c) **Transactions excluded from the levy.** The tax shall not be applicable to the following

(1) Electric vehicles charged at a private residence at which the owner or occupant of the residence uses electric power paid for by the owner or occupant of the residence which is supplied to the residence by a regulated public utility, an electric cooperative or other wholesale level of electric supply, whether or not supplemented by electric power produced by the owner or occupant using solar energy or other methods to provide electric power to the residence.

(2) Electric vehicles charged at charging stations with a charging capacity of less than fifty (50) kilowatts and charging stations that do not require payment for use.

(d) **Charging stations exempted from the levy.** The following electric charging station classifications are exempted from the imposition of tax as provided:

(1) Legacy chargers until November 1, 2041.

(2) Public charging stations that have never charged a fee for their use until November 1, 2041.

(e) **Equivalent rate.** The Oklahoma Corporation Commission shall provide the equivalent tax rate calculation, once deemed final by rule, to the Oklahoma Tax Commission for collection from businesses.

710:55-8-4. When tax is due [AMENDED]

(a) The electric vehicle charging tax shall be remitted ~~monthly~~annually for the periods beginning January 1, 2024, and ending December 31, 2028, by each charging station owner or operator on forms prescribed by the Tax Commission. For the periods beginning January 1, 2029, and all subsequent periods, the tax shall be remitted quarterly.

(b) The tax and any required report shall be filed with the Tax Commission not later than the ~~twentieth~~twenty-seventh (27th) day of the month following the ~~month during~~ annual or quarterly periods for which the electric charging for an electric vehicle occurred.

(c) The charging station owner or operator shall separately state on any invoice or billing document provided to the customer the amount of the electric vehicle charging tax imposed and shall not include the tax amount in the total amount billed to the customer.

710:55-8-6. Charging station metering requirements [AMENDED]

Any public charging station for an electric vehicle constructed or which begins operations for the first time on or after November 1, ~~2021~~ 2023, must utilize a metering system that is capable of imposing the cost for the charging service using a unit per kilowatt hour or a comparable measurement, such as time elapsed while charging and the charging capacity of the charging station. The metering system shall include a system by which an audit of the electricity supplied through the system may be performed to determine the amount of electricity transferred to a customer and the cost charged by the charging station owner or operator for each unit of electricity transferred.

[OAR Docket #24-711; filed 7-1-24]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 65. SALES AND USE TAX

[OAR Docket #24-712]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Permits
710:65-9-1. Obtaining a sales tax permit to do business [AMENDED]
710:65-9-5. Previously revoked or suspended sales tax permits [AMENDED]
710:65-9-8. Special event permits and reporting [AMENDED]
Subchapter 13. Sales and Use Tax Exemptions
Part 9. COMPUTERS; DATA PROCESSING; TELECOMMUNICATIONS
710:65-13-53. Limitation on credits [AMENDED]
Part 29. MANUFACTURING
710:65-13-158. Sales of rolling stock [AMENDED]
Part 42. DISABLED VETERANS IN RECEIPT OF COMPENSATION AT THE ONE HUNDRED PERCENT RATE
710:65-13-275. Exemption for disabled veterans in receipt of compensation at the 100% rate, unremarried surviving spouses thereof, and unremarried surviving spouses of persons who died while in the line of duty and unremarried surviving spouse of persons whose disability determination was made after their death [AMENDED]
Part 43. SOCIAL, CHARITABLE, AND CIVIC ORGANIZATIONS AND ACTIVITIES
710:65-13-339. Qualifications for "Collection and Distribution Organization" exemption [AMENDED]
710:65-13-362. Exemption for Boys & Girls Clubs of America affiliates [AMENDED]
Part 67. Broadband Equipment [NEW]
710:65-13-700. Sales and use tax exemption for the sale, lease, rental, storage, use, or other consumption of qualifying broadband equipment by providers of Internet service or their subsidiaries [NEW]
AUTHORITY:
68 O.S. §§ 203 and 1357(34); Oklahoma Tax Commission
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
January 30, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 2, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A

INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amendment to Section 710:65-9-1 outlines the changes made in Section 7 of HB 2289 except as otherwise provided requiring an individual or sole proprietor to be at least 18 years of age to obtain a sales tax permit [68:1364]. The amendment to Section 710:65-9-5 clarifies requirements for reinstatement of a sales tax permit which has been previously revoked or suspended. The amendment to Section 710:65-9-8 implements the provisions of Section 8 of HB 2289 which requires, inter alia, that at least ten days prior to the start of a special event, the organizer or promoter will submit a list of all vendors registered to attend the event. [68:1364.2]. The amendment to Section 710:65-13-158 implements the changes enacted in SB 463 [2023] by extending the sunset date of the sales tax exemption for sales of rolling stock by the manufacturer thereof from July 1, 2024, to July 1, 2029 and removing the existing criteria that in order for the sale to be exempt, it must be made by the manufacturer of the "rolling rock." [68:1357(41)]. The amendment to Section 710:65-13-275 implements HB 2312 [2023] to allow the sales tax exemption afforded an unremarried surviving spouse of a qualifying 100% disabled veteran to be claimed under circumstances where the disability determination that would have been made while the disabled veteran was still living is not made final until after the death of the disabled veteran. [68:1357(34)]. The amendment to Section 710:65-13-339 mirrors statutory language relating to the sales tax exemption afforded qualifying food distribution organizations. [68:1357(14)] The amendment to Section 710:65-13-362 fully sets forth existing policy relating to the sales tax exemption afforded Boys and Girls Clubs of America affiliates and the application thereof. A New Part 67 and Section 710:65-13-700 have been added to implement the provisions of HB 2946 [2021] and SB 34X [2023] relating to the sales tax exemption for qualifying broadband equipment purchased by providers or subsidiaries thereof. [68:1357(43), 1357.21] The amendments to Sections 710:65-13-53 and 710:65-19-294 remove the reference to the Oklahoma Research and Development Incentives Act (68 O.S. §§ 54001, et seq.) which was repealed by SB 72 (2022).
CONTACT PERSON:
Lisa R. Haws, Agency Liaison, Tax Policy Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194; Telephone number: 405-521-3133; Email: lhaws@tax.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 9. PERMITS

710:65-9-1. Obtaining a sales tax permit to do business [AMENDED]

(a) **General provisions.** Every person desiring to engage in a business within this state who will regularly and continuously make sales subject to taxation from an established place of business, will make taxable seasonal sales, or make taxable sales through peddlers, solicitors or other salesmen who have no established place of business in Oklahoma must secure from the Commission every three (3) years a written sales tax permit for a fee of Twenty Dollars ($20.00) prior to engaging in such business in this state. Each such person shall file with the Commission an application for a permit to engage in or transact business in this state, setting forth such information as the Commission may require. The application shall be signed by an owner or authorized representative of the business, and, in the case of a corporation, by an officer thereof.
(b) **Age restriction with applicable exception.** To obtain a sales tax permit, an individual or sole proprietor must be at least eighteen (18) years of age. A parent or legal guardian may apply for a permit on behalf of an individual or sole proprietor who is not at least eighteen (18) years of age, provided the parent or legal guardian will be considered the authorized user responsible for remitting state tax.
(c) **Probationary permits.** Every vendor who is making an "initial application" for a sales tax permit and who otherwise qualifies based on a review of the information contained in the application for a sales tax permit and who does not currently hold a sales tax permit, or does not qualify to receive a non-probationary permit as those qualifications are described in this Section, will be issued a probationary permit as allowed by 68 O.S. §1364(B) and implemented by the procedures set out in this Section. When issued, the probationary permit will be effective for six (6) months and will be automatically renewed for an additional thirty (30) months, unless the applicant is given written notice of Tax Commission's refusal to renew the permit.

~~(c)~~(d) **Issuance upon receipt of an "initial application."** An **"initial application"** means the first application by an entity for a sales tax permit. Upon receipt of an initial application for a sales tax permit by a person required to obtain a sales tax permit, the Commission may issue a probationary sales tax permit, based on its records, after determining that the applicant appears to be in compliance with all of the tax laws of this state and has, or will be, required to secure a sales tax permit based on the information contained in the application which was submitted.

~~(d)~~(e) **Post-issuance review of probationary permit-holder.** Once a probationary permit has been issued, the Commission may conduct a compliance visit at the taxpayers place of business or at the location of the books and records of the applicant in Oklahoma, as those locations are set out in the initial application.

(1) The compliance visit may be made by a telephone call to the offices of the applicant if the Collections Division Representative believes the information contained in the application may be verified in that manner or in the case where the applicant does not have an established place of business in Oklahoma or has an office located outside of Oklahoma.

(2) The purpose of the compliance visit is to determine if the applicant qualifies for a sales tax permit and will include:

(A) Establishing that the taxpayer is engaged in business as a group one or group three vendor, and that the applicant's business activities are not solely those of a consumer-user and therefore the probationary permit should be automatically renewed.

(B) Determining that the applicant has maintained compliance with all tax laws of the state, rules of the Commission and recordkeeping requirements and offering assistance to aid the applicant in complying with the tax laws of the state, rules of the Commission and recordkeeping requirements where necessary.

~~(e)~~(f) **Refusal of the Commission to renew the permit; notice, options available upon refusal.**

(1) If the compliance visit indicates that the applicant is ineligible; if the applicant fails to contact the Commission regarding a compliance visit, after attempted contact; if other circumstances indicate that the applicant does not qualify; or if the applicant is not complying with the tax laws of this state, rules of the Commission and recordkeeping requirements, the Commission shall, prior to the end of the sixth month of the probationary period, give notice that the applicant's probationary permit will not be renewed.

(2) The notice shall be in writing and shall allow the applicant to request a hearing to show why the permit should be issued.

(3) Upon receipt of a request for a hearing, the Tax Commission shall set the matter for a hearing and provide notice of the date, time and place of the hearing to the applicant, along with a statement of the reason for refusal. At the hearing the applicant shall appear, state its qualifications for a permit, and provide proof of compliance with all state tax laws. The hearing will not be held sooner than 10 days from the date the notice is mailed.

(4) Proceedings related to the refusal to issue a sales tax permit shall be governed by *OAC* 710:1-5-100.

~~(f)~~(g) **Compliance reviews not limited to probationary permits.** Nothing in this Section shall be construed so as to prevent, or circumscribe in any fashion, the authority of the Oklahoma Tax Commission and its appointed agents and representatives, to examine and review the books and records of every taxpayer and business operation for compliance with the tax laws of this state, rules of the Commission and recordkeeping requirements. In all cases where a review results in a determination that the business may not be in compliance with the tax laws of this state, rules of the Commission and recordkeeping requirements a hearing to revoke or suspend any license or permit may be held pursuant to *OAC* 710:1-5-100, and any other action available by law to the Tax Commission to remedy the deficiency may be pursued.

~~(g)~~(h) **Sales / Manufacturers Permit.** Each applicant who is engaged in manufacturing at a manufacturing site located in Oklahoma will be issued a Sales/Manufacturers Permit.

~~(h)~~(i) **Special event permits.** Promoters or organizers of special events must apply for a special events permit at least twenty (20) days prior to the event, provide forms to special event vendors for reporting sales tax collections, collect the sales taxes from the vendors, and remit them, along with daily sales tax reports to the Tax Commission within fifteen (15) days following the conclusion of the special event, pursuant to 710:65-9-8. [See**:** 68 O.S. Section 1364.2]

710:65-9-5. Previously revoked or suspended sales tax permits [AMENDED]

(a) A new sales tax permit will only be issued for a previously suspended or revoked permit if the vendor:

(1) Pays, or makes satisfactory arrangements to pay, all outstanding amounts, including the amounts of tax, penalties, interest and costs, if any costs were incurred.

(2) Files all returns due and outstanding.

(3) Pays the required fees for renewal or issuance of permits.

(4) Provides the security demanded to the full extent provided by law including the posting of a security bond pursuant to OAC 710:65-9-2(a)(1)(A).

(5) Confirms in writing that he will henceforth comply with all of the provisions of the laws and the rules prescribed by the Commission.

(b) If the taxpayer becomes delinquent or otherwise fails to comply with the applicable statutes and regulations, the Commission may immediately initiate proceedings to revoke the newly issued permit.

(c) No previous holder of a sales tax permit which has been permanently revoked may be issued a sales tax permit without the express action of the Commission. [**See**: 68 O.S. §1364]

710:65-9-8. Special event permits and reporting [AMENDED]

(a) **Definitions**. The following words and terms, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

(1) "**An event held on an irregular basis**", for purposes of this Section, means any event that does not occur on a continuous and ongoing basis, even if there is some frequency or pattern of occurrences. Events held on "an irregular basis" may include, but are not limited to, events held once a week or only certain weeks, events that are held every weekend or only on particular weekends, events held once a month or for only certain months, and other events that are held on a periodic basis, as well as those which occur more sporadically.

(2) "**Person**" means any individual, company, partnership, joint venture, joint agreement, association, mutual or otherwise, limited liability company, corporation, estate, trust, business trust, receiver or trustee appointed by any state or federal court or otherwise, syndicate, this state, any county, city, municipality, school district, any other political subdivision of the state, or any group or combination acting as a unit, in the plural or singular number. [68 O.S. § 1352(18)]

(3) "**Promoter**" or "**organizer**" means any person who organizes or promotes a special event which results in the rental, occupation or use of any structure, lot, tract of land, sample or display case, table or any other similar items for the exhibition and sale of tangible personal property or services taxable under Section 1350 et seq. of Title 68 of the Oklahoma Statutes by special event vendors. [68 O.S. § 1364.2]

(4) "**Special event**" means an entertainment, amusement, recreation, or marketing event that occurs at a single location on an irregular basis and at which tangible personal property is sold. "Special event" shall include, but not be limited to gun shows, knife shows, craft shows, antique shows, flea markets, carnivals, bazaars, art shows, and other merchandise displays or exhibits. "Special event" shall not include:

(A) a county, district or state fair,

(B) a public or private school or university-sponsored event,

(C) an event sponsored by a church organization exempt from taxation pursuant to 501(c)(3) of the Internal Revenue Code,

(D) an event sponsored by a city or town that includes less than ten special event vendors or

(E) a registered farmers market which is a designated area where farmers, growers, or producers from a defined region gather on a regularly scheduled basis to sell at retail nonpotentially hazardous farm food products and whole-shell eggs to the public. [68 O.S. § 1364.2]

(5) **"Special event vendor"** means a person making sales of tangible personal property or services taxable under Section 1350 et seq. of Title 68 of the Oklahoma Statutes at a special event within this state and who is not permitted under Section 1364 of Title 68 of the Oklahoma Statutes. [68 O.S. § 1364.2]

(b) **Application for special event permit.** Every promoter or organizer of a special event shall file an application for a special event permit with the Business Tax Services, Oklahoma Tax Commission at least twenty (20) days before the beginning of the special event. If more than one special event is to be held at the same location during a single calendar year, all may be included in one application, and a separate permit will be issued for each event. Each permit will include the dates of the event to be held, and must be prominently displayed at the site of the event for its duration. If an applicant wishes to have permits issued for additional events after an application has been previously submitted, another supplemental application must be filed for the additional events. The application form for a special event permit may be obtained online at ~~www.~~tax.ok.gov.

(c) **Fee.** There is a fee of fifty dollars ($50.00) for each application filed, which must be remitted with the application.

(d) **Vendor lists.** At least ten (10) days prior to the start of each event, the organizer or promoter is required to submit a list of all vendors registered to attend the event. Within fifteen (15) days following the conclusion of the special event, the organizer or promoter shall also submit a list of vendors who actually attended each event. Each list shall include the vendor's name, address, telephone number, email address and taxpayer identification number. If a vendor holds a valid sales tax permit issued under 68 O.S. § 1364, the permit number shall also be included.

(e) **Promoter or organizer to distribute vendors' reporting forms**. Special event promoters and organizations are required to provide sales tax report forms to special event vendors that will be selling tangible personal property and taxable services at the event.

~~(e)~~(f) **Promoter or organizer to collect reports and tax from special event vendors.** At the end of the event, special event promoters are required to collect the sales tax reports, along with the sales tax due from each special event vendor.
~~(f)~~(g) **Promoter or organizer to report and remit sales tax.** Promoters or organizers of special events must file sales tax reports and remit taxes collected from special events, as follows:

(1) Promoters and organizers are required to file the sales tax reports within fifteen (15) days following the last day of a special event.

(2) Payment of the total tax due is required at the time the sales tax report is filed. If not filed on or before the fifteenth (15th) day, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed; and,

(3) ~~The organizer or promoter shall also submit a list of vendors at each event that hold a valid sales tax permit issued under 68 O.S. § 1364. The list shall include the vendor's name, address, telephone number, and sales tax permit number.~~

~~(4)~~ Promoters and organizers are only liable for the failure to report and remit the sales taxes that have been collected by them from special event vendors.

~~(g)~~(h) **Limitation of responsibilities of promoters or organizers**. Promoters or organizers of a special event that is held on an annual basis during the same thirty-day period each year may request that the Tax Commission limit their responsibilities to the following:

(1) Submitting an application for a special event permit as provided in (b) of this Section.

(2) Providing report forms to special event vendors as provided in ~~(d)~~(e) of this Section; and,

(3) Within fifteen (15) days following the conclusion of the special event, submitting a list of special event vendors at each event, including the vendor's name, address, and telephone number.

~~(h)~~(i) **Denial of limitation**. Requests submitted pursuant to ~~(g)~~(h) of this Section may be denied by the Tax Commission for reasons including, but not limited to, failure by the promoter to comply with the requirements of this Section or failure by vendors of the promoter's previous special events to comply with the provisions of ~~(i)~~(j) of this Section.
~~(i)~~(j)**Vendor reporting and remitting pursuant to subsection ~~(g)~~ (h).** A special event vendor who has participated in a special event approved under subsection ~~(g)~~(h) shall remit the tax along with a sales tax report directly to the Tax Commission within fifteen (15) days following the conclusion of the special event. Sales taxes shall be considered delinquent, and interest as provided by law will be charged if payment is not received or postmarked by the fifteenth (15th) day following the event.
~~(j)~~(k) **Reporting and remitting tax when event lasts thirty (30) days or longer.** When the special event will last thirty (30) days or longer, a sales tax report is required to be filed for each calendar month by the fifteenth (15th) day of the following month.

SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS

PART 9. COMPUTERS; DATA PROCESSING; TELECOMMUNICATIONS

710:65-13-53. Limitation on credits [AMENDED]

No qualified establishment, nor its contractors or subcontractors, receiving an incentive payment pursuant to the Oklahoma Quality Jobs Program Act, 68 O.S. §§3603-3609, shall be eligible to receive the credit or exemption described in 710:65-13-51 ~~or 710:65-13-52~~. [**See:** 68 O.S. § 3607]

PART 29. MANUFACTURING

710:65-13-158. Sales of rolling stock [AMENDED]

On or after July 1, 2019, and prior to July 1, ~~2024~~ 2029, sales or leases of rolling stock ~~when sold or leased by the manufacturer~~, regardless of whether the purchaser is a public services corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by a common carrier directly in the rendition of public service are exempt from sales tax. For purposes of this Section, "rolling stock" means locomotives, autocars and railroad cars and "sales or leases" includes railroad car maintenance and retrofitting of railroad cars for their further use only on the railways.

PART 42. DISABLED VETERANS IN RECEIPT OF COMPENSATION AT THE ONE HUNDRED PERCENT RATE

710:65-13-275. Exemption for disabled veterans in receipt of compensation at the 100% rate, unremarried surviving spouses thereof, and unremarried surviving spouses of persons who died while in the line of duty and unremarried surviving spouse of persons whose disability determination was made after their death [AMENDED]

(a) **General provisions for exemption afforded certain veterans.** Sales of tangible personal property or services are exempt from sales tax when made to persons who have been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard, and who have been certified by the United States Department of Veterans Affairs, or its successor, to be in receipt of compensation at the 100% rate for a permanent disability sustained through military action or accident or resulting from a disease contracted while in such service and are registered with the veterans registry created by the Oklahoma Department of Veterans Affairs (ODVA). The exemption includes sales to the spouse of such veteran or to a household member where the veteran resides and who is authorized to make purchases on behalf of the veteran in the veteran's absence, so long as the purchase is for the benefit of the qualified veteran.

(b) **General provisions for exemption afforded an unremarried surviving spouse of a veteran qualifying under subsection (a) of this Section or a person who died in the line of duty or a person who disability determination was made after their death**. Sales of tangible personal property or services are exempt from sales tax when made to an unremarried surviving spouse of a deceased veteran qualifying for the exemption set out in subsection (a) of this Section or to an unremarried surviving spouse of a person determined by the United States Department of Defense or any branch of the United States military to have died while in the line of duty or to an unremarried surviving spouse under circumstances where the disability determination that would have been made while the disabled veteran was still living is not made final until after the death of the disabled veteran. The exemption includes sales to a household member where the qualifying surviving spouse resides who is authorized to make purchases on behalf of the spouse in his or her absence, so long as the purchase is for the benefit of the spouse.

(c) **Qualification to receive an exemption card.** To qualify for exemption under this Section and receive an exemption card a veteran or surviving spouse of a qualifying veteran must be an Oklahoma "resident" as defined in 68 O.S. §2353 and submit to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City,OK 73194 the following information:

(1) **Qualifying veteran.** A letter from the United States Department of Veterans Affairs certifying that the veteran is receiving disability compensation at the 100% rate and proof of registration with the veterans registry established in accordance with 72 O.S. § 721.

(2) **Unremarried surviving spouse of veterans qualifying for exemption under subsection (a) of this Section.** A letter from the United States Department of Veterans Affairs, Muskogee, OK certifying that the applicant is the unremarried spouse of the qualifying veteran.

(3) **Unremarried surviving spouse of a person who died in the line of duty.** An original or certified copy of the Department of Defense Form DD-1300 which certifies that the applicant is the surviving spouse of a person who died in the line of duty.

(4) **Unremarried surviving spouse of a person whose disability determination was made after their death.** A letter from the United States Department of Veterans Affairs, Muskogee, OK certifying that the applicant is the unremarried spouse of a deceased veteran which also provides for the veteran's qualifying service and disability determination made by the Department subsequent to their death.

(d) **Exemption limitations.** The authorized exemption in this Section is subject to the following limitations:

(1) **Disabled veterans in receipt of compensation at the 100% rate.** The authorized exemption for a qualified veteran is limited to Twenty-five Thousand Dollars ($25,000.00) per year of qualifying purchases made by the qualified veteran, spouse or household member authorized to make purchases on behalf of the qualified veteran in the veteran's absence. The Tax Commission may request persons asserting or claiming exemption under this Section to provide a statement executed under oath, that the total sales amounts for which the exemption is applicable have not exceeded the yearly limitation of Twenty-five Thousand Dollars ($25,000.00). If an exempt sale exceeds the exemption limitation, the sales tax in excess of the limitation shall be treated as a direct sales tax liability and the Tax Commission may recover the tax including penalty and interest by the use of any method authorized by law.

(2) **Unremarried surviving spouse.** The exemptions authorized in subsection (b) of this Section for an unremarried surviving spouse are limited to One Thousand Dollars ($1,000.00) per year of qualifying purchases made by the qualified surviving spouse. The Tax Commission may request persons asserting or claiming exemption under this Section to provide a statement executed under oath, that the total sales amount for which the exemption is applicable has not exceeded the yearly limitation of One Thousand Dollars ($1,000.00). If an exempt sale exceeds the exemption limitation, the sales tax in excess of the limitation shall be treated as a direct

sales tax liability and the Tax Commission may recover the tax including penalty and interest by the use of any method authorized by law.

(e) **Qualifying sales.** Sales are exempt if the qualified veteran or surviving spouse has an interest in the funds presented and the purchase is made on his or her behalf, and the qualified person's spouse or household member or the surviving spouse's household member authorized to make purchases on behalf of the veteran or surviving spouse in their absence has presented the exemption card issued by the Oklahoma Tax Commission.

(f) **Previously qualified veterans.** Veterans which were granted the sales tax exemption outlined in this Section prior to November 1, 2020, must register with the ODVA veterans registry prior to July 1, 2023, in order to remain qualified.

(g) **Perfection of exemption.** The sales tax exemption afforded 100% disabled veterans must be perfected by presenting the sales tax exemption card, issued to the qualifying veteran by the Tax Commission, at the time of sale so that the vendor does not charge and collect sales tax on the purchase.

(h) **Denial of exemption by vendor.** All vendors shall honor the proof of eligibility for the sales tax exemption to both the qualified veteran, qualified unremarried surviving spouse and persons making purchases for the benefit of the disabled veteran or surviving spouse. Qualifying 100% disabled veterans and qualifying unremarried surviving spouses who have had claims for sales tax exemption denied by vendors may notify the Tax Commission of such denial by submitting to the Audit Services Division a signed and completed OTC Form 13-37, which is available online at www.tax.ok.gov.

(i) **Refund request.** A refund of sales taxes erroneously paid may be claimed only under circumstances where a vendor refused to honor the proof of exemption eligibility issued by the Tax Commission and the person eligible for the exemption submits to the Tax Commission a completed and signed OTC Form 13-37 *Disabled American Veterans Notification of Denial of Exemption.*

(j) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. Section 1352 are taxable to the contractor. A contractor who performs improvements to real property for a disabled veteran in receipt of compensation at the 100% rate or an unremarried surviving spouse of the qualifying veteran who qualifies for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to disabled veterans in receipt of compensation at the 100% rate.

PART 43. SOCIAL, CHARITABLE, AND CIVIC ORGANIZATIONS AND ACTIVITIES

710:65-13-339. Qualifications for "Collection and Distribution Organization" exemption [AMENDED]

(a) **Qualification for Collection and Distribution Organization exemption.** Sales tax does not apply to the sale of tangible personal property or services to or by organizations exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) and;

(1) are primarily involved in the collection and distribution of food and household products to other organizations that facilitate the distribution of such products to the needy and such distributee organizations are exempt from taxation pursuant to 26 U.S.C. § 501(c)(3) or

(2) facilitate the distribution of such products to the needy.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(2) A written description stating the activities of the organization, as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or,

(D) Notarized letter from the President or Chairman of the organization; and,

(3) For organizations described in (a)(1) a list of organizations, including federal employer identification numbers, to which items were distributed for the previous calendar year must also be provided.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of ~~food, food products, and household products,~~ tangible personal property or services purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Other limitations.** The exemption set out in this Section does not apply to sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business.

(e) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352 are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying "Collection and Distribution Organizations" exempt from sales tax.

710:65-13-362. Exemption for Boys & Girls Clubs of America affiliates [AMENDED]

(a) **General provisions.** Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in Oklahoma which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the Internal Revenue Code, 26 U.S.C. § 501(c)(3) are exempt from sales tax.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E, available online at ~~www.~~tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3); and

(2) Documentation verifying that the applicant club is not affiliated with the Salvation Army.

(c) **Exemption limited to eligible, properly-documented transactions.** Only property or services actually purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may not purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

PART 67. BROADBAND EQUIPMENT [NEW]

710:65-13-700. Sales and use tax exemption for the sale, lease, rental, storage, use, or other consumption of qualifying broadband equipment by providers of Internet service or their subsidiaries [NEW]

(a) **Definitions**. The following words and terms, when used in this Part, shall have the following meaning unless the context indicates otherwise:

(1) **"Broadband"** means those services and underlying facilities that provide access to and from the Internet of continuous speeds of at least twenty-five (25) megabits per second (Mbps) downstream, from the provider to the customer, and continuous speeds of at least three (3) megabits per second (Mbps) upstream, from the customer to the provider, using fixed, terrestrial facilities, including, but not limited to, wireless, copper wire, fiber-optic cable, or coaxial cable, to provide such service. The minimum Internet speeds listed in this paragraph shall be subject to change or update when, or if, the Federal Communications Commission makes new rulings related to its definition of broadband. [17 O.S. § 139.102(4)]

(2) **"Underserved"** means an area or region that has Internet service at speeds higher than those that meet the definition of an unserved area, but lower than those service speeds of high-speed Internet. [17 O.S. § 139.102(48)]

(3) **"Unserved"** means an area or region in which there is not at least one provider of terrestrial broadband service that is either:

(A) Offering a connection to the Internet, or

(B) Required, under the terms of the Federal Universal Service Fund or other federal or state grant, to provide a connection to the Internet. [See: 17 O.S. § 139.102]

(b) **General provisions.** The sale, lease, rental, storage, use or other consumption of qualifying broadband equipment by providers of Internet service or subsidiaries if the property is directly used or consumed by the provider or subsidiary in or during the distribution of broadband Internet service is exempt from state and local sales and use taxes.

(c) **Exemption exceptions**. Equipment purchased for the following functions, operations and other uses do not qualify for exemption:

(1) Supporting or ancillary functions, such as office operations, field operations, marketing, transportation, warehousing, data storage, or similar operations that do not directly result in the distribution of broadband Internet service do not qualify for exemption.

(2) Property directly used or consumed in or during the provision, creation, or production of a data processing service or information service, or property the provider grants, sells, or leases to the customer for use within the home or establishment receiving broadband.

(3) The following is a nonexclusive list of items that do not qualify for the exemption:

(A) Boxes, ducts, enclosures, frames, housing, shelter, vaults, conduit/pipes that hold wires, cables, and equipment

(B) Cable lashing wires

(C) Clamps

(D) Faceplates
(E) Guy wires
(F) Grounding equipment
(G) Mounting brackets,
(H) Nuts, bolts and other types of connectors
(I) Pedestals
(J) Racks
(K) Splice trays
(L) Tools
(M) Towers, poles
(N) Testing equipment
(O) Monitoring equipment
(P) Data storage
(Q) Cell phones
(R) Laptops/tablets
(S) Fiber splicing and repair

(d) **Administration.** Pursuant to statute, the exemption for sales of qualifying broadband equipment will be administered as a rebate of the state and local sales or use taxes paid by the providers of Internet services or subsidiaries thereof to the vendor or accrued and self-remitted to the State of Oklahoma.

(e) **Purchases qualifying for exemption.** No claim for a rebate shall be approved unless the following conditions are met:

(1) The equipment was purchased in order to establish or expand broadband services in underserved or unserved areas; and

(2) Claimant establishes that as a result of the equipment purchase there has been net growth in the number of potential customers served in underserved or unserved areas.

(f) **Claim deadlines.** Rebate claims for the outlined periods are governed by the following deadlines:

(1) **FY 23 rebate claims**. To qualify for rebate payments for FY 23, equipment or other items qualifying for the exemption must be purchased and placed in service between January 1, 2022, and December 31, 2023. To receive a rebate of sales/use tax paid on purchases of qualifying broadband equipment placed in service in calendar year 2022, a claim for rebate must be filed with the Tax Commission no later than September 1, 2023. Rebate claims for sales/use tax paid for qualifying equipment purchased in calendar year 2023 must be filed with the Tax Commission not later than September 1, 2024. All claims attributable to calendar years 2022 and 2023 are to be processed by the Tax Commission not later than March 1, 2025.

(2) **FY 24 rebate claims.** To qualify for rebate payments for FY 24, equipment or other items qualifying for the exemption must be purchased and placed in service between January 1, 2024, and December 31, 2025. To receive a rebate of sales/use tax paid on purchases of qualifying broadband equipment placed in service in calendar year 2024, a rebate claim must be filed with the Tax Commission no later than September 1, 2025. Rebate claims for sales/use tax paid for qualifying equipment purchased in calendar year 2025 must be filed with the Tax Commission not later than September 1, 2026. All claims are to be processed by the Tax Commission not later than March 1, 2027.

(g) **Rebate cap**. For the fiscal year beginning July 1, 2023, and all subsequent fiscal years, the total amount of rebate is capped at $42,000,000 with $31,500,000 of the total reserved for eligible projects serving counties having a population density of fewer than one hundred (100) persons per square mile and $10,500,000 of the total reserved for eligible projects serving counties having a population density of one hundred (100) or more persons per square mile.

(h) **Distribution of rebate dollars**. The amount of rebate paid to each claimant shall be computed by dividing the applicable total rebate pool amount by the dollar amount of claims timely received by the Tax Commission with respect to each fiscal year, and paying in full the amount of the claims submitted if the amount of claims are equal to, or less than, the total rebate pool, or a pro rata share if the total amount of claims submitted exceed the rebate pool. Qualifying claim amounts which are not paid will not rollover to the next claim period.

(i) **Application process.** The sales/use tax rebate claims with supporting documentation are to be mailed to Credits and Refunds Section, Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194. Rebate claims must include the following information:

(1) The name, address, and telephone number of the contact person along with the name, address, telephone number and at least the last four digits of the purchaser's identification number.

(2) A written detailed explanation of why the rebate is due.

(3) Copies of the original invoices included in the rebate request, in chronological order, from the oldest to the most current. If the number of invoices exceeds twenty-five (25), the invoices must be accompanied by an electronic spreadsheet of the invoices associated with the rebate claim that relates back to the tax amount requested on the application for credit. The required fields should accurately list the vendor name, invoice date, invoice number, description of the items, the taxable amount, the sales/use tax requested, period the tax was remitted, permit number the tax was remitted under, and the jurisdiction(s) for which the tax was paid.
(4) Additional documents which support the rebate claim, including proof that equipment purchases established or expanded broadband services in underserved or unserved areas and resulted in a net growth in the number of potential customers served in the covered areas.
(5) If the amount of the request exceeds $10,000, the purchaser must also provide the following:
(A) A statement from each vendor to whom the purchaser paid the tax setting forth each invoice included in the claim;
(B) The amount of state, city and/or county tax collected from the purchaser and reported by the vendor and the local jurisdiction(s) for which the tax was paid; and
(C) The date on which the tax was remitted to the Tax Commission.
(6) Further, the claim must differentiate between project property serving counties with a population density of fewer than one hundred (100) persons per square mile and those with a population density of one hundred (100) or more persons per square mile.

[OAR Docket #24-712; filed 7-1-24]

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 95. MISCELLANEOUS AREAS OF REGULATORY AND ADMINISTRATIVE AUTHORITY

[OAR Docket #24-713]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Professional Licensing Compliance Review
710:95-9-4. Procedure for review of status and notification to licensee [AMENDED]
710:95-9-5. Procedure for notification of status to licensing entity [REVOKED]
Subchapter 17. ~~Prepaid Wireless~~911 Telephone Fee [AMENDED]
710:95-17-1. Purpose [AMENDED]
710:95-17-3. Definitions [AMENDED]
710:95-17-5. Fees, reports, payments and penalties [AMENDED]
710:95-17-7. Due date that falls on Saturday, Sunday or holiday [AMENDED]
710:95-17-9. Contents of monthly ~~prepaid wireless~~911 telephone fee report [AMENDED]
710:95-17-10. Record maintenance for ~~wireless and VoIP~~ service providers [AMENDED]
710:95-17-11. Registrants must file a return for every reporting period [AMENDED]
AUTHORITY:
68 O.S. §§ 203, 238.1; Oklahoma Tax Commission
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 20, 2023
COMMENT PERIOD:
December 15, 2023 through January 17, 2024
PUBLIC HEARING:
January 17, 2024
ADOPTION:
January 30, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 2, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:

N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The amendments to Subchapter 9. Professional Licensing Compliance Review implement the provisions of HB 1956 which requires a person holding a state license to be in compliance with Oklahoma income tax laws. [68:238.1] The amendments to Subchapter 17. Prepaid Wireless Fee implement the provisions of HB 1590 (2023) which increases the current 9-1-1 telephone fees from $0.75 to $1.25, expands the base of the fee to include each service with the ability to dial 9-1-1 for emergency calls, including landline, increases the apportionment to the Oklahoma 9-1-1 Management Authority Revolving Fund from $0.05 collected from each of these fees to $0.22, and eliminates the 3% vendor retention related to prepaid 9-1-1 fees and the 1% vendor retention for the remaining fees, in addition to reducing the OTC reimbursement percentage for the referenced fees from 1% to .8%. [63:2865, 2866, & 2867]
CONTACT PERSON:
Lisa R. Haws, Agency Liaison, Tax Policy Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194; Telephone number: 405-521-3133; Email: lhaws@tax.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 9. PROFESSIONAL LICENSING COMPLIANCE REVIEW

710:95-9-4. Procedure for review of status and notification to licensee [AMENDED]
(a) **Review and notification to licensee.** Information from each licensing entity shall be reviewed to determine those licensees for whom compliance cannot be confirmed. Each licensee shall be notified, by letter mailed to the address provided by the professional licensing entity, that Commission records indicate non-compliance with the Oklahoma Income Tax laws. ~~The licensee will be informed that the professional license will not be renewed until the licensee is determined to be in compliance by the Commission.~~ The Notice shall include a statement of the amount of any tax, penalty, and interest due, or a list of tax years for which income tax returns have not been filed, or both, in applicable cases. The notice shall also provide information regarding the rights of the licensee and what procedures must be followed in order to come into compliance with the income tax laws.
(b) **Compliance assistance.** The Commission shall make every reasonable effort to assist non-compliant licensees to attain compliance status within six (6) months from the date of notification.

710:95-9-5. Procedure for notification of status to licensing entity [REVOKED]

~~(a) **Notification of noncompliance to licensing entity.** The Commission shall notify the licensing entity and the licensee's license shall not be renewed if:~~

~~(1) A licensee has been notified of noncompliance pursuant to Section 710:95-9-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the licensee has failed to respond to the notice;~~

~~(2) A licensee has been notified of noncompliance pursuant to Section 710:95-9-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the licensee has failed to come into compliance with the income tax laws of this state after an assessment has become final; or,~~

~~(3) A licensee has been notified of noncompliance pursuant to Section 710:95-9-4(a), and, after a period of six (6) months from the date of that notice has elapsed, the licensee has failed to come into compliance with the income tax laws of this state and the Commission determines that every reasonable effort has been made to assist the licensee to come into compliance.~~

~~(b) **Notification of compliance to licensing entity.** If the Commission has previously reported a licensee to be non-compliant to the respective licensing entity, and the licensee comes into compliance, the licensing entity shall be immediately so notified.~~

~~(c) **Exception.** The licensing entity shall not be notified pursuant to this Section, if the licensee has timely protested a proposed income tax assessment, unless the protest has been resolved in favor of the Commission and the licensee has been given an opportunity to come into compliance.~~

SUBCHAPTER 17. ~~PREPAID WIRELESS~~911 TELEPHONE FEE [AMENDED]

710:95-17-1. Purpose [AMENDED]

The provisions of this Subchapter have been promulgated for the purpose of compliance with the Oklahoma Administrative Procedures Act, 75 O.S. §§250.1 et seq, and to facilitate the administration, enforcement, and collection of the ~~prepaid wireless~~911 telephone fee under the Oklahoma Statutes.

710:95-17-3. Definitions [AMENDED]

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

"Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

"9-1-1 wireless telephone fee" means the fee imposed in Section 2865 of Title 63 of the Oklahoma Statutes to finance the installation and operation of emergency 9-1-1 services and any necessary equipment.

"Prepaid wireless telecommunications service", as defined in Section 2862 of Title 63 of the Oklahoma Statutes, means a telecommunications wireless service that provides the right to utilize mobile wireless service as well as other telecommunications services, including the download of digital products delivered electronically, content and ancillary services, which are paid for in advance that is sold in predetermined units or dollars of which the number declines with use in a known amount. **"Prepaid wireless telecommunications service"** does not include traditional calling cards.

"Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than for resale.

"Seller" means a person who sells prepaid wireless telecommunications service to another person.

"Service provider" means a person who furnishes wireless telephone connections, wireless communication devices or service connections or other services with the ability to dial 9-1-1 for emergency calls, including landline. [See: OAC 710:95-17-5].

"Traditional calling card" means a calling card which provides access only to long distance telephone service by enabling the user to originate a call using an access number or authorization code and which is not intended for use exclusively on a cellular phone.

"Voice over Internet Protocol (VoIP) provider" means a provider of interconnected Voice over Internet Protocol service to end users in the state, including resellers.

"Wireless service provider" means a provider of commercial mobile service under Section 332(d) of the Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq., Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, and includes a provider of wireless two-way communication service, radio-telephone communications related to cellular telephone service, network radio access lines or the equivalent, and personal communication service. The term does not include a provider of:

(A) a service whose users do not have access to 9-1-1 service,

(B) a communication channel used only for data transmission, or

(C) a wireless roaming service or other nonlocal radio access line service.

"Wireless telecommunications connection" means the ten-digit access number assigned to a customer regardless of whether more than one such number is aggregated for the purpose of billing a service user.

710:95-17-5. Fees, reports, payments and penalties [AMENDED]

(a) **9-1-1 ~~wireless~~ telephone fee imposition.** Beginning ~~January 1, 2017~~ November 1, 2023, a ~~seventy-five cent~~ [~~$0.75~~]$1.25 9-1-1 ~~wireless~~ telephone fee is imposed:

(1) Monthly on each wireless telephone connection and other wireless communication device or service connection with the ability to dial 9-1-1 for emergency calls;

(2) Monthly on each service ~~that is enabled by Voice over Internet Protocol (VoIP) or Internet Protocol (IP)~~ with the ability to dial 9-1-1 for emergency calls including landline; and

(3) On each prepaid wireless retail transaction occurring in this state.

(b) **Fee invoice.** The 9-1-1 ~~wireless~~ telephone fees imposed pursuant to paragraphs (1) and (2) of subsection (a) which are required to be collected by the ~~wireless~~ service provider ~~or VoIP provider~~ may be added to and must be separately stated in any billing to the service subscriber. [63 O.S. § 2866(D)]. The 9-1-1 ~~wireless~~ telephone fee imposed pursuant to paragraph (3) of subsection (a) and collected by the seller from the consumer shall be separately stated on the invoice, receipt or similar document provided to the consumer, or otherwise disclosed to the consumer. [63 O.S. § 2867(C)].

(c) **Fee incidence:** The 9-1-1 ~~wireless~~ telephone fee is the liability of the consumer or ~~wireless~~ service subscriber. [63 O.S. §§ 2866(C) and 2867(D)]

(d) **Examples of prepaid wireless telecommunications service**. Examples of prepaid wireless telecommunications services include cellular phones preloaded with a set dollar amount, minutes or units of air time, or sold with rebates for airtime; calling cards for cellular phones preloaded with a set dollar amount, minutes or units of air time and the recharging of a reusable cellular phone calling card or the cellular phone itself with additional minutes or units of air time.

(e) **Examples and illustrations**. Examples and illustrations of situations involving 9-1-1 ~~wireless~~ telephone fee calculation and the base determination for purposes of sales tax collection and other applicable taxes, fees and surcharges.

(1) **Multiple transactions**. A $~~0.75~~$1.25 fee is imposed for each transaction outlined in subsection (a) of this Section. For example, if a consumer simultaneously buys five (5) preloaded cellular phone cards, ~~$0.75~~$1.25 is imposed on each card resulting in a total of ~~$3.75~~$6.25 in 9-1-1 ~~wireless~~ telephone fees. Further if a person's monthly wireless telecommunications subscription includes four (4) service connections or wireless telephone lines a ~~$0.75~~$1.25 fee would be imposed on each connection for a total monthly fee of ~~$3.00~~$5.00.

(2) **Fee excluded from base**. When separately stated on the invoice, the 9-1-1 ~~wireless~~ telephone fee should not be included in the base for measuring sales tax or any other applicable tax, fee, surcharge, or other charge that is imposed by the state, any political subdivision of this state, or any intergovernmental agency.

(f) **Monthly electronic reporting**. ~~On the 20th of the month every seller of prepaid wireless telecommunications service, wireless service providers and Voice over Internet Protocol providers, except as noted in (g) of this Section,~~Except as provided in subsection (g) of this Section, sellers of prepaid wireless telecommunications services and providers of services outlined in subsection (a) of this Section shall report and make payment of the 9-1-1 ~~wireless~~ telephone fees for the previous calendar month in accordance with the Tax Commission's electronic funds transfer and electronic data interchange program available online at www.ok.tax.gov.

(g) **Exception toelectronic reporting and payment.** Any seller ~~of prepaid wireless telecommunications services, wireless service providers and Voice over Internet Protocol providers~~or service provider which has been granted an exception to the electronic filing requirement for sales tax reporting and payment purposes pursuant to *OAC* 710:65-3-4(c) shall automatically receive an electronic filing exception for purposes of reporting and paying ~~prepaid wireless~~911 telephone fees. These entities shall file Form 20013-A on or before the 20th day of each month. Remittances covering the 9-1-1 ~~wireless~~ telephone fees must accompany the return. Form 20013-A is available ~~telephonically at (405) 521-3160 or~~ online at ~~www.~~tax.ok.gov.

(h) **Interest.** Interest at the rate of one and one-quarter percent (1 1/4%) per month will be imposed on all liability not paid at the time when required to be paid. Said interest will be imposed and collected on the delinquent fees at one and one-quarter percent (1 1/4%) per month from the date of delinquency until paid. [68 O.S. § 217]

(i) **Penalty for failure to file and remit.** A taxpayer who fails to file a return and remit the full fee amount within fifteen (15) days after the due date shall be subject to a penalty of ten percent (10%) of the fee amount due. [68 O.S. § 217]

(j) **Waiver of penalty; interest.** At the discretion of the Tax Commission, the interest or penalty, or both, may be waived provided the taxpayer can demonstrate that the failure to pay the tax when due is satisfactorily explained, or that the failure resulted from a mistake by the taxpayer of either law or fact, or that the taxpayer is unable to pay the interest or penalty due to insolvency. Requests for waiver or remission must be made in writing and must include all pertinent facts

to support the request. [**See:** 68 O.S. § 220]

710:95-17-7. Due date that falls on Saturday, Sunday or holiday [AMENDED]

If a due date of a 9-1-1 ~~wireless~~ telephone fee report falls on Saturday, Sunday, holiday, or a date when the Federal Reserve Banks are closed, such due date shall be considered to be the next business day.

710:95-17-9. Contents of monthly ~~prepaid wireless~~911 telephone fee report [AMENDED]

~~(a) **General provisions.**~~ Every seller ~~of prepaid wireless telecommunications service, wireless service providers and Voice over Internet Protocol providers~~and service provider shall file a monthly report for sales made the preceding month stating the name of the seller or service provider, address, telephone number, federal employer identification number (FEIN) or social security number (SSN), account number of the business and the period (month and year) covered by the report. In addition, the report shall disclose the following:

(1) Total number of retail transactions for prepaid wireless telecommunications.

(2) Amount of resulting 9-1-1 ~~wireless~~ telephone fees.

(3) ~~Amount of seller's retention outlined in subsection (b), if applicable.~~

~~(4)~~ Total number of ~~VoIP Connections~~ connections including landline.

~~(5)~~(4) Total number of ~~Wireless Connections~~wireless connections.

~~(6)~~(5) Amount of resulting 9-1-1 telephone fees.

~~(7) Amount of seller's retention outlined in subsection (b), if applicable.~~

~~(8)~~(6) The balance of fees due ~~less any retention amount allowed, as described in (b) of this Section~~.

(A) The return should show the amount of interest (if any) that is due.

(B) The return should show the amount of penalty (if any) that is due.

~~(9)~~(7) Such other reasonable information as the Tax Commission may require.

~~(b) **Retention for timely reporting and payment.** When the 9-1-1 wireless telephone fee report with all required information included is timely filed, and the total amount of fees reported are timely paid, three percent (3%) of the fees collected pursuant to paragraph (3) of subsection (a) of 710:95-17-5 may be deducted and retained in addition to one percent (1%) of the fees collected pursuant to paragraphs (1) and (2) of subsection (a) of 710:95-17-5. The retention amounts may not be deducted and retained by a taxpayer who files an incomplete report, files his report after the date of delinquency, or fails to make full payment on or before the due date. [63 O.S. § 2867(B)]~~

710:95-17-10. Record maintenance for ~~wireless and VoIP~~ service providers [AMENDED]

~~The wireless service provider or VoIP provider~~Service providers must maintain records of the amount of 9-1-1 telephone fees collected in accordance with the provisions of this subchapter for a period of three (3) years from the time the fee is collected.

710:95-17-11. Registrants must file a return for every reporting period [AMENDED]

Sellers ~~making retail sales of prepaid wireless telecommunications services, wireless service providers and Voice over Internet Protocol~~and service providers must file a return for each reporting period, notwithstanding the fact that, during one or more of such reporting periods, there is no item sold subject to the 9-1-1 telephone fee. On the return for such a reporting period, the taxpayer should indicate that no transactions subject to the fee were made and that no fees are due.

[OAR Docket #24-713; filed 7-1-24]

TITLE 765. OKLAHOMA USED MOTOR VEHICLE, DISMANTLER, AND MANUFACTURED HOUSING COMMISSION
CHAPTER 13. TEMPORARY LICENSE PLATES

[OAR Docket #24-677]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 3. Design

765:13-3-2. Form and substance of the temporary license plate [AMENDED]
765:13-3-3. Content of the temporary license plate [AMENDED]

AUTHORITY:
Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission; 47 O.S. Section 582(E)(1), 75 O.S. Section 583 B.3., 75 O.S. Section 302 et.seq

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 7, 2023

COMMENT PERIOD:
December 2, 2023 through January 2, 2024

PUBLIC HEARING:
January 9, 2024

ADOPTION:
January 10, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 10, 2024

LEGISLATIVE APPROVAL:
N/A

LEGISLATIVE DISAPPROVAL:
N/A

APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024

EFFECTIVE:
August 11, 2024

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:
N/A

GUBERNATORIAL APPROVAL:
N/A

REGISTER PUBLICATION:
N/A

DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:
N/A

INCORPORATING RULES:
N/A

AVAILABILITY:
N/A

GIST/ANALYSIS:
The rules change the present language to conform to HB 1390 and eliminate conflicts in Rules with the new law.

CONTACT PERSON:
Brian Wilson, Executive Director, Brian.Wilson@oumvdmhc.ok.gov, 405-521-3605

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. DESIGN

765:13-3-2. Form and substance of the temporary license plate [AMENDED]

(a) The temporary license plate for all used motor vehicles except motorcycles shall be 11 1/2 inches in length and 6 inches in height.

(b) A temporary license plate for a motorcycle shall be 7 inches in length and 4 inches in height.

(c) The temporary license plate shall be of a weatherproof non-glare plastic-impregnated white substance with ink absorbing characteristics capable of withstanding continual exposure to the natural elements such as water, mud and wind without loss of form or content for a period in excess of ~~thirty (30) days~~two(2) months.
(d) Fastener holes for placing the temporary license plate to the vehicle shall be at an appropriate location for use of the factory installed mounting holes on the vehicle on which the temporary license plate shall be placed.

765:13-3-3. Content of the temporary license plate [AMENDED]
(a) There shall be two rectangular shaped blocks for the month, two rectangular shaped blocks for the day of the month, and two rectangular shaped blocks for the year indicating the date of the sale of the vehicle. The blocks shall be of a size of at least 1 3/4 inches in height and 1 1/2 inches in width and pale or light toned green in color. The rectangular blocks for the motorcycle temporary license plates shall be 1 inch in height and 3/4 inch in width. Preprinted below the two blocks on the left shall be the words "SOLD MONTH"; below the middle two blocks shall be the words "SOLD DAY"; and below the two blocks on the right shall be "SOLD YEAR".
(b) Any writing on the temporary license plate not preprinted shall be applied by an instrument using indelible black ink. The ink marker for writing in the date blocks should be capable of making a mark of at least 1/4 inch in width.
(c) The temporary license plate shall have the following preprinted language: The selling dealer's company name, the word "Oklahoma" or "Okla" , and the words "~~30 Day~~ 2 Month Temporary Tag" and a line with the words "Vehicle Year", "Make", "Model", below the line.
(d) In addition to the preprinted information recited in paragraphs (a) and (c), the temporary license plate shall have preprinted a sequential number of no fewer than six digits, approximately one inch in height. The height of the preprinted unique sequential number for a motorcycle temporary license plate shall be no less than 1/2 inch. The dealer shall record the temporary license plate's unique sequential number on the front of the vehicle's bill of sale in a conspicuous location. A dealer shall not issue more than one unique sequentially numbered temporary license plate for the same vehicle sale.
(e) The name of the purchaser shall be written on the temporary license plate or in lieu of the name of the purchaser the words "see bill of sale" may be used. If the term "see bill of sale" is used, the purchaser shall retain the bill of sale in the vehicle at all times until the vehicle has been registered in the purchaser's name.

[OAR Docket #24-677; filed 6-26-24]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 5. FEES

[OAR Docket #24-663]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. General Provisions
785:5-1-9. Dam safety and inspection fees [AMENDED]
AUTHORITY:
Oklahoma Water Resources Board; 82 O.S. § 1085.2; 82 O.S. § 1085.4.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 22, 2023
COMMENT PERIOD:
December 15, 2023 through January 16, 2024
PUBLIC HEARING:
January 16, 2024
ADOPTION:
February 20, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 23, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A

APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024.
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The rules in Oklahoma Administrative Code ("OAC") 785:5-1-9 have been amended to reflect increased cost of labor to review dam safety construction applications.
CONTACT PERSON:
Sara Gibson, General Counsel, 405-530-8800, sara.gibson@owrb.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. GENERAL PROVISIONS

785:5-1-9. Dam safety and inspection fees [AMENDED]
(a) Filing fees which must be submitted with each application to construct, enlarge, alter, or repair a dam (based on estimated cost of construction, enlargement, etc.) are as follows:
(1) $99,999 or less estimated cost - ~~$500.00~~$1,000.00
(2) $100,000 through ~~19,999,999~~$11,999,999 estimated cost - One-half of one percent (0.5%) of estimated cost; not to exceed ~~$5,000.00~~$6,000.00.
(3) ~~$20,000,000~~$12,000.00or greater estimated cost - ~~$10,000~~Five hunddredths of one percent (0.05%) of estimated cost.
(b) Fees for inspections of dams classified as low or significant hazard potential made at request of a person who is not an owner of the dam or other routine or periodic inspections conducted by Board personnel are as follows:
(1) Small (see 785:25-3-3) - $250.00 for each inspection visit.
(2) Intermediate (see 785:25-3-3) - $500.00 for each inspection visit.
(3) Large (see 785:25-3-3) - $1000.00 for each inspection visit.
(c) Fees for inspections of dams classified as high hazard potential made at request of a person who is not an owner of the dam or other routine or periodic inspections conducted by Board personnel shall be the actual cost of such inspection.
(d) The fee required for issuance of a certificate of completion is $25.00 plus if applicable, the inspection fee set out in subsection (b) or (c) of this Section.
(e) Inspection report review and administration fees are due with submittal of the inspection reports as follows:
(1) Significant hazard dams - $300 once every three (3) years
(2) High hazard dams - $350 each year; provided that if the inspection report and fee is not submitted by the date specified, an additional fee of $50.00 will be due.

[OAR Docket #24-663; filed 6-29-24]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 20. APPROPRIATION AND USE OF STREAM WATER

[OAR Docket #24-664]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 13. Interference Conditions at Bureau of Reclamation Reservoirs [NEW]
785:20-13-1. Definitions [NEW]
785:20-13-2. Lugert-Altus Reservoir [NEW]
785:20-13-3. Tom Steed Reservoir [NEW]
785:20-13-4. Notification of interference [NEW]
AUTHORITY:
Oklahoma Water Resources Board; 82 O.S., §§ 105.1, et seq., and 82 O.S., § 1085.2.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 22, 2023
COMMENT PERIOD:
December 15, 2023 through January 16, 2024
PUBLIC HEARING:
January 16, 2024
ADOPTION:
February 20, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 23, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:

The Oklahoma Water Resources Board ("OWRB") has adopted a new Subchapter 13 to Chapter 20. The subchapter uses study data, setting specific drought thresholds to limit surface water withdrawal by junior surface water permits upstream of Lugert-Altus and Tom Steed reservoirs.

CONTACT PERSON:

Sara D. Gibson, General Counsel, 405-530-8800, sara.gibson@owrb.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 13. INTERFERENCE CONDITIONS AT BUREAU OF RECLAMATION RESERVOIRS [NEW]

785:20-13-1. Definitions [NEW]

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

"12-month cumulative inflow" means the sum of monthly inflow.

"Conservation pool" means a lake level elevation above the National Geodetic Vertical Datum of 1929 of 1,411feet for Tom Steed Reservoir and 1,559 feet for Lugert-Altus Reservoir.

"Monthly inflow" means, absent of stream gage data, the monthly change in lake volume calculated using lake elevation, plus the volume of evaporation, plus the volume of water used from the reservoir, plus the volume of water released downstream from the reservoir, plus (for Lugert-Altus Reservoir) the volume of seepage from the dam.

"Palmer Drought Severity Index" means a standardized index, developed and maintained by the National Oceanic and Atmospheric Administration ("NOAA"), based on a simplified soil water balance and estimates relative soil moisture conditions. The magnitude of PDSI indicates the severity of the departure from normal conditions.

"Standardized Precipitation Index" means a widely used index, developed and maintained by National Oceanic and Atmospheric Administration ("NOAA"), to characterize meteorological drought on a range of timescales.

785:20-13-2. Lugert-Altus Reservoir [NEW]

(a) The following drought conditions shall be applied to determine interference with the water rights associated with the Lugert-Altus Reservoir based on findings published in the *Bureau of Reclamation Upper Red River Basin Study Full Report* (2023):

(1) Lake level elevation is below the top of conservation pool;

(2) The 12-month cumulative inflow to the reservoir is less than 79,000 acre-feet; and

(3) The Standardized Precipitation Index (SPI) is less than -0.01 for the West Central Oklahoma Climate Division 4.

(b) The Board will review the conditions at least once a year in September of each year. If the drought conditions are met, Board staff will notify holders of stream water permits that are junior to Lugert-Altus Reservoir that water use must cease. Such notification will occur according to the provisions of OAC 785:20-13-4.

(c) Curtailment may be requested by the Lugert-Altus Irrigation District at any time upon reasonable belief that the conditions in this section have been met. Upon this request, Board staff will review the drought conditions and take appropriate action.

785:20-13-3. Tom Steed Reservoir [NEW]

(a) The following drought conditions shall be applied to determine interference with the water rights associated with the Tom Steed Reservoir and the Bretch Diversion Dam on Elk Creek in Kiowa County based on findings published in the *Bureau of Reclamation Upper Red River Basin Study Full Report* (2023):

(1) Lake level elevation is below the top of conservation pool;

(2) The 12-month cumulative inflow to the reservoir is less than 28,600 acre-feet; and

(3) The Palmer Drought Severity Index (PDSI) is less than -0.49 for the Southwest Oklahoma Climate Division 7.

(b) The Board will review the conditions at least once a year in September of each year. If the drought conditions are met, Board staff will notify holders of stream water permits that are junior to Tom Steed Reservoir and the Bretch Diversion Dam on Elk Creek in Kiowa County that water use must cease. Such notification will occur according to the provisions of OAC 785:20-13-4.

(c) Curtailment may be requested by the Mountain Park Conservation District at any time upon reasonable belief that the conditions in this section have been met. Upon this request, Board staff will review the drought conditions and take appropriate action.

785:20-13-4. Notification of interference [NEW]

(a) When the Board determines that interference is occurring according to the provisions of this Subchapter, the Board shall notify via telephone and U.S. mail each holder of a junior stream water permit that water use must cease. If an email address is on file with the Board, the Board shall also contact the junior permit holder via email.

(b) Failure to comply with the Board's direction will result in an enforcement action that may include monetary penalties pursuant to 82 O.S. § 105.20. The Board may also seek an injunction in the District Court where the diversion point is located.

(c) If one of the conditions in 785-20-13-3(a) no longer exists, the Board will notify holders of junior permits that water use authorized under their permit may resume.

[OAR Docket #24-664; filed 6-29-24]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 25. DAMS AND RESERVOIRS

[OAR Docket #24-692]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Responsibility, Classification and Design Standards
785:25-3-2. Owner's responsibility [AMENDED]
785:25-3-6. Minimum spillways performance standards [AMENDED]
785:25-3-7. Minimum ~~outlet conduit~~valley floor drain capacities [AMENDED]
Subchapter 5. Applications and Approval of Construction
785:25-5-1. Application and fee required [AMENDED]
Subchapter 7. Post Approval Actions
785:25-7-6. Notice of completion and filing of supplementary drawings or descriptive matter [AMENDED]
785:25-7-7. Emergency action plans [AMENDED]
Subchapter 9. Actions After Construction
Appendix A. Jurisdiction of Board by Size and ~~Nazard~~Hazard Classification [AMENDED]
AUTHORITY:
Oklahoma Water Resources Board; 82 O.S. § 1085.2; 82 O.S. § 110.1 and following; 82 O.S. § 105.20 and 105.27
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 22, 2023
COMMENT PERIOD:
December 15, 2023 through January 16, 2024
PUBLIC HEARING:
January 16, 2024
ADOPTION:
February 20, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 23, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024

EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
The Oklahoma Water Resources Board ("OWRB") is adopting amendments to rules in Oklahoma Administrative Code ("OAC") 785:25 as follows: OAC 785:25-3-2 is to be amended by including a seller's responsibility for the notification of transfer of ownership of a dam. OAC 785:25-3-6 is to be amended to require that if a spillway which was originally constructed prior to June 13, 1973, is proposed to be enlarged, modified, or reconstructed, that the spillway standards described in OAC 785-25-3-6(a) shall be used in its design. OAC 785:25-3-7 modifies the language to refer to dam "valley floor drains" in place of "outlet conduits" to remove the ambiguity between other dam appurtenances of similar name. OAC 785:25-5-1 clarifies that an Application to Construct, Enlarge, Repair or Alter Dam and/or Spillway be submitted to and approved by the Board prior to the commencement of dam construction activities with the exception of some site preparation. OAC 785:25-5-1 is to be amended in regard to the application requirements for the modification of an existing agriculture-exempt dam. If the proposed modification is not being prepared with the assistance of a local conservation district or federal agriculture related agency, the owner shall submit an application in accordance with 785-25-5 for the modification. OAC 785:25-7-6 would apply a 30-day time limit to file a Notice of Completion of Works upon dam completion. OAC 785:25-7-7 would require that a dam Emergency Action Plan be submitted to the Board, at minimum, once every five years. OAC 785:25 Appendix A for the correction of the appendix title.
CONTACT PERSON:
Sara D. Gibson, General Counsel, 405-530-8800, Sara.Gibson@owrb.ok.gov.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. RESPONSIBILITY, CLASSIFICATION AND DESIGN STANDARDS

785:25-3-2. Owner's responsibility [AMENDED]

(a) **General.**

(1) Owners of dams to which the provisions of this Chapter apply shall have the responsibility to provide for the safety of such works by making any necessary changes to put the works in a safe condition.

(2) Such responsibility includes but is not necessarily limited to the following: the filing of an application to construct, enlarge, alter or repair the dam pursuant to Subchapter 5; the modification of the dam to meet applicable minimum requirements in this Subchapter; and the adequate maintenance, operation, and inspection of an existing dam.

(b) **Multiple owners.**

(1) When there is more than one owner of a dam, the Board shall consider all such owners responsible for the safety of such dam unless evidence to the contrary shows otherwise.

(2) The Board shall provide copies of inspection reports to at least one owner of record at the Board and shall provide notice of hearing on dam safety related matters to such owner with an instruction that the notice shall be delivered or mailed to all owners.

(3) Unless otherwise agreed by all the owners and the Board, the Board may, after such notice and hearing, order all the owners to take whatever remedial action is necessary to put the dam in a safe condition.
(4) The Board will not attempt to delineate levels of responsibility or allocate particular items of action among the owners.

(c) **Transfer of ownership.** Upon transfer of ownership of the works, both the new and previous ~~owner~~owners shall notify the Board of such transfer.

785:25-3-6. Minimum spillways performance standards [AMENDED]

(a) **General performance standards.**
(1) Except as otherwise provided in this Chapter, all dams must meet or exceed the following performance standards as determined by analysis of plans and specifications for the dam and existing site conditions.
(2) Owners of existing dams which do not meet the following performance standards must make necessary changes in the dam to meet the applicable performance standards.
(3) The discharge capacity and/or storage capacity of the project shall be capable of passing the indicated spillway design flood without infringing on the minimum freeboard requirements, provided that a design which includes overtopping of the dam may be authorized if specifically approved by the Board.
(4) The minimum performance standards expressed as magnitude of spillway design flood and minimum freeboard will be assigned to the various size and hazard potential classification determined under 785:25-3-3 as described in Appendix B.

(b) **Amending minimum freeboard.** The minimum freeboard requirement may be amended by the Board on a case-by-case basis for good cause shown by the owner.

(c) **Probable maximum flood.**
(1) PMF means and refers to the Probable Maximum Flood and is defined as the flood that may be expected from the most severe combination of critical meteorologic conditions, defined as the Probable Maximum Precipitation (PMP), and critical hydrologic conditions that are reasonably possible in the region.
(2) Since design floods are usually determined by using mathematical computations through computer modeling and since several different acceptable models are available, flood design calculations must fall within plus/minus 5% PMF of the Board's current model results.
(3) The PMF storm should be the most conservative PMP storm type and duration to adequately reflect the size and hydrologic characteristics of the watershed in which the dam is located.
(4) *Regional Probable Maximum Precipitation Study for Oklahoma, Arkansas, Louisiana, and Mississippi* (Applied Weather Associates, 2019) shall be used in determining precipitation depth, area, and duration relationships for the PMP. The location-specific precipitation depth-area-duration relationship shall be applied to the spatial and temporal distribution methods described in *Hydrometeorological Report No. 52* (National Oceanic and Atmospheric Administration, 1982).

(d) **PMF on dam designated for regulation.** Adam which the Board has determined is subject to regulation because of its high hazard potential, although otherwise considered too small, shall be required to safely pass 25% PMF with no minimum freeboard.

(e) **Dams constructed prior to June 13, 1973.**
(1) Any dam constructed prior to June 13, 1973, classified as having high hazard-potential as described in 785:25-3-3 shall be required to pass a minimum design flood as follows:
~~(1)~~(A) Small size - 25% PMF with one foot of freeboard.
~~(2)~~(B) Intermediate size - 50% PMF with no minimum freeboard.
~~(3)~~(C) Large size - 75% PMF with no minimum freeboard.
(2) Proposed designs to enlarge, alter, or repair a spillway of any dam constructed prior to June 13, 1973, may be required meet the general performance standards set forth in 785-25-3-6(a) as determined by the Board. Provided that any dam constructed prior to June 13, 1973, that does not meet minimum spillway performance standards in Appendix B, and the spillway/spillways is/are proposed to undergo substantial modification, the minimum spillway performance standards defined in 785-25-3-6(a) shall be met by the proposed design.

(f) **Dams constructed after 1973 without Board approval.** An owner of a dam constructed after 1973 without prior approval by the Board shall remove the dam or may request a variance or waiver from the requirement for submittal of plans and specifications as provided for in 785:25-5-2 and 785:25-5-3, provided the owner of the dam shall submit an application containing the following:
(1) A topographic map of the dam site showing the location of spillway and outlet works.
(2) Drawings showing the length, width, and height of dam.
(3) Detailed plans of spillway structures, spillway profile, and procedures for operating of the spillway structure.

(4) Hydrologic and hydraulic analysis report as described in Hydrologic and Hydraulic Guidelines for Dams in Oklahoma, Oklahoma Water Resources Board, Dam Safety Program, August 2011.
(5) Complete a dam breach inundation analysis and map if Board staff determines the dam may be a significant or high hazard-potential structure.
(6) Inspection of the dam by a registered Professional Engineer and submit a written inspection report to the Board not later than 30 days after the inspection and shall contain information as set forth in a Board hazard inspection report.
(7) Pay minimum application fee as provided in 785:5-1-9(a) and 785:5-1-9(f).
(8) In addition, the applicant may be required to submit a detailed geotechnical investigation and analysis of the dam and report on such investigation. The geotechnical investigation shall include a minimum boring layout as follows:

(A) One (1) crest boring extending through the embankment and foundation materials to bedrock.
(B) Two (2) crest borings extending through the embankment and foundation materials to bedrock, one near each abutment.
(C) One (1) boring extending through the embankment and foundation materials to bedrock near the mid-height on the downstream slope of the dam.
(D) One (1) boring extending through the embankment and foundation material to bedrock along the toe of the dam.

785:25-3-7. Minimum ~~outlet conduit~~valley floor drain capacities [AMENDED]

(a) **Requirements for ~~outlet conduit~~ valley floor drain capacity shall be as follows:**

(1) All dams subject to the Board's jurisdiction shall have at least one ~~outlet conduit~~ valley floor drain of sufficient capacity to prevent interference with natural streamflow and injury of downstream appropriators and domestic users. Absent evidence to the contrary, the minimum size of the ~~outlet conduit~~ valley floor drains shall be as set forth in subsection (d) of this section.
(2) The height of the ~~outlet conduit~~ valley floor drain shall be no more than five feet (5') above the natural stream channel unless otherwise ordered by the Board. The capacity of the reservoir below the ~~outlet conduit~~ valley floor drain shall be designated as the inactive pool.

(b) **~~Conduit~~ Valley floor drain operation.** All ~~conduits~~valley floor drains shall be gate- or valve-operated on the upstream side and shall be maintained in an operable condition at all times.

(c) **~~Conduit~~ Valley floor drain design life.** The design life expectancy of the conduit shall be equal to or greater than the design life of the dam.

(d) **Minimum size ~~outlet conduit~~ valley floor drain requirements.** The ~~outlet conduit~~valley floor drain must be of sufficient size to draw down the entire reservoir to the inactive pool within twenty (20) days, provided that minimum size outlet requirements are as follows:

(1) For less than 100 acre-feet normal pool capacity (at principal spillway), the minimum size of ~~conduit~~valley floor drain is 6-inch pipe.
(2) For 101 to 150 acre-feet normal pool capacity (at principal spillway), the minimum size of ~~outlet conduit~~valley floor drain is 8-inch pipe.
(3) For 151 to 200 acre-feet normal pool capacity (at principal spillway), the minimum size of ~~outlet conduit~~valley floor drain is 10-inch pipe.
(4) For 201-250 acre-feet normal pool capacity (at principal spillway), the minimum size of ~~outlet conduit~~valley floor drain is 12-inch pipe.
(5) For 251-300 acre-feet normal pool capacity (at principal spillway), the minimum size of ~~outlet conduit~~valley floor drain is 14-inch pipe.
(6) For 301-350 acre-feet normal pool capacity (at principal spillway), the minimum size of ~~outlet conduit~~valley floor drain is 15-inch pipe.
(7) For 351-500 acre-feet normal pool capacity (at principal spillway), the minimum size of ~~outlet conduit~~valley floor drain is 16-inch pipe.
(8) For more than 500 acre-feet normal pool capacity (at principal spillway), the minimum size of ~~outlet conduit~~valley floor drain is 24-inch pipe.

(e) **Amendments of minimum requirements for good cause.** Minimum size requirements may be amended by the Board for good cause. However, ~~conduit~~the valley floor drain must be of sufficient size to draw down the entire reservoir to the inactive pool within a period of not more than twenty (20) days.

SUBCHAPTER 5. APPLICATIONS AND APPROVAL OF CONSTRUCTION

785:25-5-1. Application and fee required [AMENDED]

(a) **General.**

(1) Any person who shall desire to construct, enlarge, alter, remove, or repair any dam under the Board's jurisdiction shall submit an application upon printed forms which will be furnished by the Board upon request. Applicant must receive Board approval prior to the commencement of any construction activities other than clearing, grubbing, or other site preparation that will not have the effect of impounding water.

(2) For the purposes of this subchapter, repair shall not be deemed to include routine normal maintenance.

(3) The maps, plans, drawings, and specifications of the proposed work along with the required fee shall form a part of the application.

(4) The application and attachments shall be filed in duplicate.

(5) Notwithstanding the provisions of paragraph (1) of this subsection, *an owner who proposes to construct a new dam* that will be considered an agriculture-exempt dam *shall be required only to notify the Board of such construction* and file a notice of completion in accordance with 785:25-7-6 [82:110.5]. An owner who proposes to enlarge, alter, remove, or modify an existing agriculture-exempt dam shall submit an application prepared with the assistance of a local conservation district or federal agriculture related agency, or shall submit an application for consideration by the Board in accordance with 785-25-5.

(b) **Signature Of applicant.** The application shall be signed as follows:

(1) If the applicant is an individual, the application shall be signed by the applicant or his duly appointed agent, who shall present satisfactory evidence of his authority to represent the applicant.

(2) A joint application shall be signed by each applicant or his duly authorized agent, provided that a joint application by husband and wife may be signed by either party (joint applicants are required to select one among them to act for and represent the others in dealing with the Board).

(3) If the application is by a partnership, the applicant shall be designated by the firm name followed by the words "A Partnership" and the application shall be signed by each of the general partners or, if signed by one partner or other agent, a written statement of the agent's authorization to make the application, signed by the other parties of interest, shall be attached to the application.

(4) In the case of an estate or guardianship, the application shall be signed by the duly appointed guardian or representative of the estate, and a certified copy of the letter issued by the court shall be attached to the application.

(5) In the case of a water district, county, municipality, etc., the application shall be signed by a duly authorized official, and a certified copy of the resolution or other authorization to make the application shall be attached.

(6) In the case of a private corporation, the application shall be signed by a duly authorized person and, if not attested by the secretary or assistant secretary, a copy of the authorization shall be attached to the application.

(c) **Notary public required.** All applicants shall subscribe and swear to the application before a Notary Public, who shall also sign his name and affix his seal to the application.

(d) **Water rights.** Water rights requested or required in connection with a planned dam or reservoir may be approved based on preliminary information; however, no construction, enlargement, alteration or repair shall proceed until the application required by this Section has been submitted and approved in accordance with the rules of this subchapter and until the water rights required are approved.

SUBCHAPTER 7. POST APPROVAL ACTIONS

785:25-7-6. Notice of completion and filing of supplementary drawings or descriptive matter [AMENDED]

~~Immediately upon~~Within thirty (30) days of completion of a new dam or reservoir or enlargement or repair of a dam or reservoir, the owner shall give notice of completion and as soon thereafter as possible shall file supplementary drawings or descriptive matter showing or describing the dam or reservoir as actually constructed, including the following:

(1) A record of all grout holes and grouting;

(2) A record of permanent location points and bench marks;

(3) A record of tests of concrete soils, or other materials used in the construction of the dam or reservoir;

(4) Any other items which may be of permanent value and have a hearing on the safety and performance of the dam or reservoir; and

(5) For dams classified as high hazard-potential, a breach analysis report and map showing the breach inundation area utilizing the publication Hydrologic and Hydraulic Guidelines for Dams in Oklahoma, Oklahoma Water Resources Board, Dam Safety Program, August 2011.

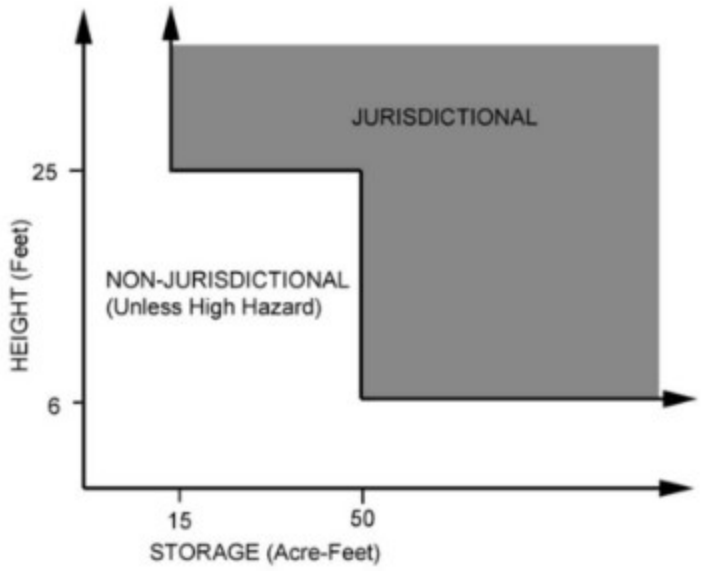
785:25-7-7. Emergency action plans [AMENDED]

(a) Owners of existing or proposed dams classified as high hazard-potential, regardless of the size of such dams, and any other dam as determined by the Board, shall create and maintain an EAP that utilizes the recommendations, as determined by the Board, of the "Federal Guidelines for Dam Safety, Emergency Action Planning for Dams," published July 2013 by the Federal Emergency Management Agency. The owner shall submit a copy of the EAP to the Board.

(b) Owners shall ~~annually~~ review their EAPs annually to ~~assure~~ensure they are ~~still~~accurate and applicable~~, and submit any updates to the EAPs to the Board~~. EAP updates shall be submitted annually as applicable, or at a minimum, once every five (5) years.

SUBCHAPTER 9. ACTIONS AFTER CONSTRUCTION

APPENDIX A. JURISDICTION OF BOARD BY SIZE AND ~~NAZARD~~HAZARD CLASSIFICATION [AMENDED]



[OAR Docket #24-692; filed 6-29-24]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 30. TAKING AND USE OF GROUNDWATER

[OAR Docket #24-666]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Permit Application Requirements and Processing
785:30-3-4. Notice of application [AMENDED]
AUTHORITY:
Oklahoma Water Resources Board; 82 O.S. § 1085.2; 82 O.S. § 1020.7, 82 O.S. § 1021.1a
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 22, 2023
COMMENT PERIOD:
December 15, 2023 through January 16, 2024
PUBLIC HEARING:
January 16, 2024
ADOPTION:
February 20, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 23, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024.
FINAL ADOPTION:

June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Staff proposes that the Oklahoma Water Resources Board ("Board") amend Oklahoma Administrative Code ("OAC") section 785:30-3-4 to require that public notice of a ground water application be provided to permit holders on a property in addition to the owner of the surface estate. The information to meet this new requirement can be found on the website of the Oklahoma Water Resources Board.
CONTACT PERSON:
Sara D. Gibson, General Counsel, 405-530-8800, sara.gibson@owrb.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. PERMIT APPLICATION REQUIREMENTS AND PROCESSING

785:30-3-4. Notice of application [AMENDED]
(a) **Application notice.** Notice of the application, including hearing date, time and place if scheduled prior to notice, shall be provided by the applicant as required by law and Board instructions. Unless otherwise directed by the Board, such notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county where each existing or proposed well is located. Notice shall also be provided by certified mail to all surface estate owners of lands and holders of existing and pending permits to use groundwater located within one-thousand three hundred twenty feet (1,320') from actual locations of existing or proposed wells shown on the application plat and from the outside boundaries of any potential well areas shown on the application plat. Accuracy and adequacy of notice shall be the responsibility of the applicant.
(b) **Proof of notice.** Adequate proof that notice was provided as instructed by the Board shall be submitted to the Board by the applicant within fifteen days after the last date of newspaper publication, or as otherwise directed by the Board. Such proof shall show the dates on which said notice was published in such newspaper and that the applicant did properly notify the surface estate owners as instructed.
(c) **Failure to give adequate notice.** If adequate notice and proof of notice is not provided by the applicant, the application may be dismissed and the application fee forfeited.
(d) **Revised published notice of hearing.** The Board may require a revised notice to be published at the applicant's expense in case material error or deviation is made in the description of the land, the well location, *or the manner in which a protest to the application may be made* [82:1020.8], or if the applicant makes substantial amendments to his application after notice of the original application, or fails to effect proper publication in any manner.
(e) **Protests and hearings.**

(1) If the Board does not schedule a hearing on the application before instructing the applicant to provide notice, a hearing on the application shall be scheduled by the Board upon receipt of a protest which meets the requirements of Section 785:4-5-4, and the Board shall notify the applicant and protestant of such hearing [82:1020.8].
(2) Any interested person shall have the right to protest said application and present evidence and testimony in support of such protest. Such protests shall be made in accordance with Chapter 4 of this Title.
(3) Even if no protest is received, the applicant shall be advised and given opportunity for hearing if the application cannot be recommended for approval to the Board.
(4) For limited quantity permit applications, interested persons may submit written comments about the application. A hearing on such application may be required by the Executive Director pursuant to 785:30-5-4.1(d) if it is shown that a significant public interest or property right would be affected by approval of the application.

[OAR Docket #24-666; filed 6-29-24]

TITLE 785. OKLAHOMA WATER RESOURCES BOARD
CHAPTER 50. FINANCIAL ASSISTANCE

[OAR Docket #24-668]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 15. Water and Wastewater American Rescue Plan Act Grant Program Requirements and Procedures
785:50-15-6. Disbursement of funds [AMENDED]
Subchapter 17. Oklahoma Dam Rehabilitation (OKDR) Grant Program Requirements and Procedures
785:50-17-8. Disbursement of funds [AMENDED]
Subchapter 19. American Rescue Plan Act Tribal Cooperation Grant Program Requirements and Procedures
785:50-19-6. Disbursement of funds [AMENDED]
AUTHORITY:
Oklahoma Water Resources Board; 82 O.S., § 1085.2.; Senate Bills 1325 (2022); Senate Bill 429, 4xx, 13xx (2022)
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
November 22, 2023
COMMENT PERIOD:
December 15, 2023 through January 16, 2024
PUBLIC HEARING:
January 16, 2024
ADOPTION:
February 20, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 23, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024.
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:

N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Subchapter 15, Subchapter 17, and Subchapter 19 are amended to remove from the American Rescue Plan Act (ARPA) grant language the section requiring an acceptable bid filed with the Oklahoma Water Resources Board (OWRB) within ninety (90) days of approval by the OWRB and language that allows for a bid exception up to a certain amount of time. The language will now allow for acceptable bids to be submitted as they are created without a delay to ARPA grantees. The intended effect of the rule change is to help alleviate time delays on projects and construction costs for grantees.
CONTACT PERSON:
Sara D. Gibson, General Counsel, 405-530-8800, sara.gibson@owrb.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 15. WATER AND WASTEWATER AMERICAN RESCUE PLAN ACT GRANT PROGRAM REQUIREMENTS AND PROCEDURES

785:50-15-6. Disbursement of funds [AMENDED]

(a) **Action following Board approval and prior to disbursement of funding.**

(1) **Notification of approval**. Upon approval of an ARPA grant application, the Board shall furnish to the applicant a written notice of grant approval. The notice shall advise the applicant that the grant application has been formally and officially approved by the Board and that the grant funds approved shall be made available to the applicant by the Board for such purposes and upon such other terms and conditions as the Board may require.

(2) **Bid filing.**~~Within ninety (90) days following the date of the written notice of approval, the~~The applicant shall file with the Board an acceptable bid in compliance with the Competitive Bidding Act for completion of the proposed project. ~~Where determined necessary and appropriate, the Board or its staff may permit additional time to file such a bid; provided, notwithstanding any approval of additional time, if such a bid is not filed within 6 months following the date of Board approval of the application, then the Board's approval shall expire, and no funds shall be released.~~

(3) **Additional conditions prior to disbursement of grant funds.**

(A) Applicant shall maintain, in such manner as is acceptable to the Board or its staff, a federally insured account through which the grant proceeds shall be administered and separately accounted for by the applicant.

(B) Unless otherwise provided and approved by the Board, applicant shall submit to the Board all plans, specifications, and engineering reports, for the project for staff approval, all of which shall be complete and in sufficient detail as would be required for submission of the project to a contractor for bidding or contracting the project. If not previously provided, applicant shall provide Board with a written and verified statement setting forth:

(i) the amount of funds needed for initial commencement of the project, and

(ii) information reflecting the reasonable availability of and/or a commitment from all other revenue or funding sources needed to finance and complete the project.

(C) Applicant and Board, and all other necessary parties, shall have executed all necessary and incidental instruments and documents, including but not limited to a grant agreement.

(4) **Board action on request for increase in approved amount.** If prior to disbursement of the grant monies to the applicant, the project bids exceed the engineer's estimates or it otherwise develops that the ARPA grant amount approved by the Board, when combined with any other sources of funding, will be insufficient to complete the approved project, then the applicant may file a written request:

(A) to amend the scope of the approved project in a manner consistent with (a)(5) of this Section; or

(B) that the Board reconsider the application with an increased ARPA grant amount.

(5) **Board action on request for change in scope of approved project.** If prior to disbursement of the grant monies to the applicant, it develops that the applicant wishes to change the scope of the project from that approved by the Board, then the applicant may file a written request for approval of such a change. If the Board staff determines that the change is reasonably and in all material aspects within the scope of the project description approved by the Board, then the staff shall be authorized to approve such requested change. If the Board staff determines that the change is not in all material respects within the scope of the project description approved by the Board, then such a request shall be presented to the Board for action.

(b) **Disbursement of funding to applicant; action following disbursement.**

(1) **Disbursement contingent on completion of conditions; reduction from approved amount.** At the time and upon compliance by the applicant with the applicable requirements in (a) of this Section, the Board may disburse the approved amount of ARPA grant funds to the applicant for the approved project.

(2) **Disbursement in whole or part; timing.** As the Board may direct, grant funds may be disbursed to the applicant in installments by pay requests or in lump sum, and may be disbursed prior to, during or upon completion of the project, all as deemed appropriate by the Board under the project circumstances presented.

(3) **Post-disbursement requests for increases in funding amount.** If after disbursement of the grant monies to the applicant it develops that the applicant needs more money for the project than the ARPA grant amount disbursed by the Board, then any request for additional ARPA grant money shall follow the rules in this Subchapter governing new applications.

(4) **Post-disbursement requests for changes in scope of approved project.** If it develops that the applicant wishes to change the scope of the project from that approved by the Board, then the applicant may file a written request for approval of such a change to use undisbursed funds. If the Board staff determines that the change is reasonably and in all material aspects within the scope of the project description approved by the Board, then the staff shall be authorized to approve such requested change. If the Board staff determines that the change is not in all material respects within the scope of the project description approved by the Board, then such a request shall be presented to the Board for action. If the request is denied the applicant shall either proceed with the project as approved or abandon the project and deobligate the grant monies in accordance with the grant agreement.

(5) **Post-disbursement action regarding unexpended funding.** If following completion of the project, it develops that the applicant needed less money for the project the applicant shall deobligate the unexpended amount to the Board in accordance with the grant agreement.

(6) **Additional requirements.** The Board may impose additional reasonable and necessary conditions or requirements for the disbursement to the applicant or expenditure by the applicant of ARPA grant funds, all as may be deemed appropriate by the Board.

SUBCHAPTER 17. OKLAHOMA DAM REHABILITATION (OKDR) GRANT PROGRAM REQUIREMENTS AND PROCEDURES

785:50-17-8. Disbursement of funds [AMENDED]

(a) **Action following Board approval and prior to disbursement of funding.**

(1) **Notification of approval.** Upon approval of an OKDR grant application, the Board shall furnish to the applicant a written notice of grant approval. The notice shall advise the applicant that the grant application has been formally and officially approved by the Board and that the grant funds approved shall be made available to the applicant by the Board for such purposes and upon such other terms and conditions as the Board may require.

(2) **Bid filing.** ~~Within ninety (90) days following the date of the written notice of approval, the~~The applicant shall file with the Board an acceptable bid for completion of the proposed project. ~~Where determined necessary and appropriate, the Board or its staff may permit additional time to file such a bid; provided, notwithstanding any approval of additional time, if such a bid is not filed within one (1) year following the date of Board approval of the application, then the Board's approval shall expire and no funds shall be released provided however, if an~~

~~acceptable bid for completion has not been filed due to circumstances that lay outside the applicant's control, the applicant may request, and the Board may approve or deny, a one-time extension of time not to exceed six (6) months to file an acceptable bid. Provided further, in the event of such expiration the applicant may file a new application which shall be subject to due consideration on its own merits.~~

(3) **Additional conditions prior to disbursement of grant funds.**

(A) Applicant shall establish and maintain, in such manner as is acceptable to the Board or its staff, a federally insured account through which the grant proceeds shall be administered and separately accounted for by the applicant. Once the Board or its staff has deemed the proposed activities listed in the invoice are eligible for OKDR Grant funding, are within the approved scope of work, and meet all legal requirements, the Board shall deposit the grant funds into the (appropriate account). The applicant shall then expend funds from the account only as permitted in the grant agreement, Board rules, and state guidelines

(B) Unless otherwise provided and approved by the Board, applicant shall submit to the Board all plans, specifications, and engineering reports, for the project for staff approval, all of which shall be complete and in sufficient detail as would be required for submission of the project to a contractor for bidding or contracting the project.

(C) If not previously provided, applicant shall provide Board with a written and verified statement setting forth:

(i) the amount of funds necessary for release and disbursement at closing which funds are needed for initial commencement of the project, and

(ii) information reflecting the reasonable availability of and/or a commitment from all other revenue or funding sources needed to finance and complete the project.

(D) Applicant and Board, and all other necessary parties, shall have executed all necessary and incidental instruments and documents, including but not limited to a grant agreement.

(4) **Board action on request for increase in approved amount.** If prior to disbursement of the grant monies to the applicant, the project bids exceed the engineer's estimates or it otherwise develops that the OKDR grant amount approved by the Board, when combined with any other sources of funding, will be insufficient to complete the approved project, then the applicant may file a written request:

(A) to amend the scope of the approved project in a manner consistent with (a)(5) of this Section; or

(B) decline funding and withdraw its application for the current fiscal year and request that the Board reconsider the application with an increased OKDR grant amount during the following fiscal year. The request for an increased OKDR grant amount shall be treated as a new application on its own merits; provided, the original application shall not be counted for purposes of the previous grant assistance portion of the priority point determination.

(5) **Board action on request for change in scope of approved project.** If prior to disbursement of the grant monies to the applicant, it develops that the applicant wishes to change the scope of the project from that approved by the Board, then the applicant may file a written request for approval of such a change. If the Board staff determines that the change is reasonably and in all material aspects within the scope of the project description approved by the Board, then the staff shall be authorized to approve such requested change. If the Board staff determines that the change is not in all material respects within the scope of the project description approved by the Board, then such a request shall be presented to the Board for action. Provided, however, the Board shall not approve a change in scope of project if the change, if considered as part of the original application, would have resulted in a lower priority point determination on the application.

(b) **Disbursement of funding to applicant; action following disbursement.**

(1) **Disbursement contingent on completion of conditions; reduction from approved amount.** At the time and upon compliance by the applicant with the applicable requirements in (a) of this Section, the Board may disburse the approved amount of OKDR grant funds to the applicant for the approved project.

(2) **Disbursement in whole or part; timing.** As the Board may direct, grant funds may be disbursed to the applicant in installments or in lump sum, and may be disbursed prior to, during or upon completion of the project, all as deemed appropriate by the Board under the project circumstances presented.

(3) **Post-disbursement requests for increases in funding amount.** If after disbursement of the grant monies to the applicant it develops that the applicant needs more money for the project than the OKDR grant amount disbursed by the Board, then any request for additional OKDR grant money shall follow the rules in this Subchapter governing, and shall be treated as, a new application on its own merits.

(4) **Post-disbursement requests for changes in scope of approved project.** If it develops that the applicant wishes to change the scope of the project from that approved by the Board, then the applicant may file a written request for approval of such a change to use undisbursed funds. If the Board staff determines that the change is reasonably and in all material aspects within the scope of the project description approved by the Board, then the staff shall be authorized to approve such requested change. If the Board staff determines that the change is not in all material respects within the scope of the project description approved by the Board, then such a request shall be presented to the Board for action. If the request is denied the applicant shall either proceed with the project as approved or abandon the project and deobligate the grant monies in accordance with the grant agreement.
(5) **Post-disbursement action regarding unexpended funding.** If following completion of the project it develops that the applicant needed less money for the project than disbursed by the Board, the applicant shall return or de-obligate the unexpended amount to the Board.
(6) **Additional requirements.** The Board may impose additional reasonable and necessary conditions or requirements for the disbursement to the applicant or expenditure by the applicant of OKDR grant funds, all as may be deemed appropriate by the Board.

SUBCHAPTER 19. AMERICAN RESCUE PLAN ACT TRIBAL COOPERATION GRANT PROGRAM REQUIREMENTS AND PROCEDURES

785:50-19-6. Disbursement of funds [AMENDED]

(a) **Action following Board approval and prior to disbursement of funding.**

(1) **Notification of approval**. Upon approval of an ARPA grant application, the Board shall furnish to the applicant a written notice of grant approval. The notice shall advise the applicant that the grant application has been formally and officially approved by the Board and that the grant funds approved shall be made available to the applicant by the Board for such purposes and upon such other terms and conditions as the Board may require.
(2) **Bid filing.**~~Within ninety (90) days following the date of the written notice of approval, the~~The applicant shall file with the Board an acceptable bid in compliance with the Competitive Bidding Act for completion of the proposed project. ~~Where determined necessary and appropriate, the Board or its staff may permit additional time to file such a bid; provided, notwithstanding any approval of additional time, if such a bid is not filed within 6 months following the date of Board approval of the application, then the Board's approval shall expire, and no funds shall be released.~~

(3) **Additional conditions prior to disbursement of grant funds.**

(A) Applicant shall maintain, in such manner as is acceptable to the Board or its staff, a federally insured account through which the grant proceeds shall be administered and separately accounted for by the applicant.

(B) Unless otherwise provided and approved by the Board, applicant shall submit to the Board all plans, specifications, and engineering reports, for the project for staff approval, all of which shall be complete and in sufficient detail as would be required for submission of the project to a contractor for bidding or contracting the project. If not previously provided, applicant shall provide Board with a written and verified statement setting forth:

(i) the amount of funds needed for initial commencement of the project, and

(ii) information reflecting the reasonable availability of and/or a commitment from all other revenue or funding sources needed to finance and complete the project.

(C) Applicant and Board, and all other necessary parties, shall have executed all necessary and incidental instruments and documents, including but not limited to a grant agreement.

(4) **Board action on request for increase in approved amount.** If prior to disbursement of the grant monies to the applicant, the project bids exceed the engineer's estimates or it otherwise develops that the ARPA grant amount approved by the Board, when combined with any other sources of funding, will be insufficient to complete the approved project, then the applicant may file a written request:

(A) to amend the scope of the approved project in a manner consistent with (a)(5) of this Section; or

(B) that the Board reconsider the application with an increased ARPA grant amount.

(5) **Board action on request for change in scope of approved project.** If prior to disbursement of the grant monies to the applicant, it develops that the applicant wishes to change the scope of the project from that approved by the Board, then the applicant may file a written request for approval of such a change. If the Board staff determines that the change is reasonably and in all material aspects within the scope of the project description approved by the Board, then the staff shall be authorized to approve such requested change. If the

Board staff determines that the change is not in all material respects within the scope of the project description approved by the Board, then such a request shall be presented to the Board for action.

(b) **Disbursement of funding to applicant; action following disbursement.**

(1) **Disbursement contingent on completion of conditions; reduction from approved amount.** At the time and upon compliance by the applicant with the applicable requirements in (a) of this Section, the Board may disburse the approved amount of ARPA grant funds to the applicant for the approved project.

(2) **Disbursement in whole or part; timing.** As the Board may direct, grant funds may be disbursed to the applicant in installments by pay requests or in lump sum, and may be disbursed prior to, during or upon completion of the project, all as deemed appropriate by the Board under the project circumstances presented.

(3) **Disbursement of funds for project costs.** ARPA funds shall be expended for the designated project only after the other identified sources of funds for the project have been expended. This shall in no way limit the Board from expending ARPA funds according to the Public Law 117-2 and in order to meet the required deadlines.

(4) **Post-disbursement requests for increases in funding amount.** If after disbursement of the grant monies to the applicant it develops that the applicant needs more money for the project than the ARPA grant amount disbursed by the Board, then any request for additional ARPA grant money shall follow the rules in this Subchapter governing new applications.

(5) **Post-disbursement requests for changes in scope of approved project.** If it develops that the applicant wishes to change the scope of the project from that approved by the Board, then the applicant may file a written request for approval of such a change to use undisbursed funds. If the Board staff determines that the change is reasonably and in all material aspects within the scope of the project description approved by the Board, then the staff shall be authorized to approve such requested change. If the Board staff determines that the change is not in all material respects within the scope of the project description approved by the Board, then such a request shall be presented to the Board for action. If the request is denied the applicant shall either proceed with the project as approved or abandon the project and deobligate the grant monies in accordance with the grant agreement.

(6) **Post-disbursement action regarding unexpended funding.** If following completion of the project, it develops that the applicant needed less money for the project the applicant shall deobligate the unexpended amount to the Board in accordance with the grant agreement.

(7) **Additional requirements.** The Board may impose additional reasonable and necessary conditions or requirements for the disbursement to the applicant or expenditure by the applicant of ARPA grant funds, all as may be deemed appropriate by the Board.

[OAR Docket #24-668; filed 6-29-24]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 1. OPERATIONS AND PROCEDURES

[OAR Docket #24-741]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Function, Organization, Powers and Duties
800:1-3-3. Function, organization, powers and duties [AMENDED]
AUTHORITY:
Title 29 O.S., Section 3-103, 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 5, 2023
COMMENT PERIOD:
November 1, 2023 through December 9, 2023
PUBLIC HEARING:
December 8, 2023
ADOPTION:
January 8, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 18, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
Add language regarding the Department Vehicle Policy
CONTACT PERSON:
Nels Rodefeld, Chief of Communication and Education Division, phone: 405-521-3855 or Tammy St Yves, APA Liaison, phone: 405-522-6279; 1801 N. Lincoln Blvd, Oklahoma City, Oklahoma

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. FUNCTION, ORGANIZATION, POWERS AND DUTIES

800:1-3-3. Function, organization, powers and duties [AMENDED]

The following describes the function, organization, powers and duties of the Oklahoma Department of Wildlife Conservation and Oklahoma Wildlife Conservation Commission.

(1) **Creation and Composition of the Commission, Director and Department.**

(A) **Commission:** The Oklahoma Department of Wildlife Conservation and Oklahoma Wildlife Conservation Commission were created by Section 1, Article XXVI of the Constitution of Oklahoma in 1956. See also 29 O.S. Section 3-101 et seq.

(B) **Director:** A Director of Wildlife Conservation was created by Section 3, Article XXVI of the Constitution of Oklahoma in 1956. See also 29 O.S., Section 3-104.

(C) **Department:**The Department includes assistants and employees appointed by the Director with the approval of the Commission. The Department is organized in divisions such as Administration, Fisheries, Wildlife, Law Enforcement, and Information & Education.

(2) **Commission organization.** The Commission may establish ad hoc committees to assist the Commission for any lawful purpose. See 29 O.S., Section 3-103.

(3) **Powers, authority and duties.** The powers, authority and duties of the Department and Commission are generally set forth in Article XXVI of the Oklahoma Constitution, 29 O.S., Sections 3-101 et seq., and 27A O.S., Section 1-3-101.
(4) **Vehicle policy.** Pursuant to 29 O.S. Section 3-193, the Commission has adopted and approved the Department's vehicle use policy, which is set forth in the ODWC employee handbook.

[OAR Docket #24-741; filed 7-3-24]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 10. SPORT FISHING RULES

[OAR Docket #24-744]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 3. Methods of Taking
800:10-3-3. Additional definitions [AMENDED]
800:10-3-5. Use of bow and arrow, grabhooks, gigs, spears, and spearguns, snagging, noodling and netting [AMENDED]
AUTHORITY:
Title 29 O.S., Section 3-103, 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 5, 2023
COMMENT PERIOD:
November 1, 2023 through December 8, 2023
PUBLIC HEARING:
December 8, 2023
ADOPTION:
January 8, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 18, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor’s declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 11, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A

INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:
This rule change is to develop to clarify the definition of equipment used for bowfishing and correcting the name of Grand River Dam to Pensacola Dam.
CONTACT PERSON:
Ken Cunningham, Chief of Fisheries Division, phone: 405-521-3721 or Tammy St Yves, APA Liaison, phone: 405-522-6279; 1801 N. Lincoln Blvd, Oklahoma City, Oklahoma.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 3. METHODS OF TAKING

800:10-3-3. Additional definitions [AMENDED]

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

"Bow and arrow" when used for bowfishing means any bow and arrow (including crossbows) and devices that permit a bow to be held mechanically at full or partial draw are permitted. Minimum requirements defining a bow containing a hand-held riser with a semi-rigid arc with two limbs connected by a string for propulsion. Arrows used for bowfishing shall have one (1) point, two (2) or more barbs, and are attached to the bow by a line for retrieving fish.

"Foul hooked" means a fish hooked other than inside the mouth.

"Gaff hook" means a handheld hook or handheld pole with a hook attached and may only be used in the landing of a fish, other than paddlefish, already hooked by other legal hook and line methods.

"Gig" means a hand-held fish spearing device mounted at the end of a shaft containing not more than three (3) points and not more than two (2) barbs on each point.

"Grabhook" means a handheld hook or handheld pole, or rope, with a single hook attached used in the initial taking of a fish.

"Jugline" means a vertical line suspended from a nonmetallic or nonglass floating device which is drifting free or anchored, having no more than five (5) hooks per line and limited to twenty (20) such juglines per person.

"Limbline" means a line attached to a limb, branch, other natural object, or non-metallic manmade pole having no more than two (2) hooks attached per line and limited to twenty (20) such limblines per person.

"Noodling" means the taking of fish by use of hands only.

"Snagging" means the dragging of one (1) single hook or one (1) treble hook through the water attached to a hand-held line or fishing rod and line for the purpose of impaling fish. Only one (1) pole or rod per angler is permitted while snagging.

"Yo-Yo" means any mechanical fishing device which automatically recoils when a fish strikes and is limited to no more than twenty (20) such devices per person.

"Unattended" means not within visual observing distance.

"Fish Remains" means any fish that has been filleted or has had the entrails removed.

800:10-3-5. Use of bow and arrow, grabhooks, gigs, spears, and spearguns, snagging, noodling and netting [AMENDED]

(a) **Bow and arrow.** The use of bow and arrows in bowfishing shall be lawful for taking nongame fish only in all waters of the state throughout the year, except:

(1) Illinois River and its tributaries shall be closed at all times to such fishing except, those portions above the Horseshoe Bend boat ramp on Tenkiller Reservoir which is open from December 1 through March 31 annually. Tenkiller Reservoir below Horseshoe Bend boat ramp is open to bowfishing.

(2) Reservoir tailwaters, other than Eufaula, Keystone, Wister, Fort Gibson, Thunderbird, Hudson (Markham Ferry), and Heyburn shall be closed to fishing with bow and arrows throughout the year. This does not alter provisions of 29 O.S., Section 7-101, which designates a safety zone of the first 150 feet immediately below the dam on all reservoirs except Tenkiller, Canton, Salt Plains, and Fort Supply.

(3) All waters defined as "Designated Trout Areas" during open season for taking trout are closed.
(4) All waters within the boundaries of the Wichita Mountains Wildlife Refuge are closed.
(5) Only that section of the Caney River from Hulah Dam downstream approximately 1,200 feet to the re-regulation dam is closed. Fishing with a bow and arrow is lawful in the Caney River below the re-regulation dam.
(6) The following portions of Grand River:
(A) The main river channel of Grand River below the turbine outlets of ~~Grand River~~Pensacola Dam downstream to the State Park Bridge is closed throughout the year.
(B) The Grand River occurring below the spillway outlets of ~~Grand River~~Pensacola Dam downstream to the highline crossing (approximately ½ mile) is closed throughout the year with the next ½ mile downstream from the highline crossing closed during periods when the spillway gates are open and discharging water and for seven (7) days following closure of the spillway gates.
(7) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.
(8) "Close To Home" fishing waters and Lakes Pickens, Carl Albert and Taft and all ponds and lakes in the Ouachita National Forest are closed.
(9) The taking of paddlefish by bow and arrow is prohibited on the Red River from Denison Dam downstream to the stateline year round.
(10) Bowfishing may be used at Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper throughout the year during daylight hours only.
(11) The Salt Fork of the Arkansas River from the spillway of Great Salt Plains Reservoir downstream to the State Highway 38 Bridge is closed.

(b) **Grabhooks.** Taking fish by use of a grabhook is prohibited in all state waters.

(c) **Gigs, spears and spearguns.** The use of gigs, spears and spearguns containing not more than three (3) points with no more than two (2) barbs on each point shall be lawful for taking nongame fish only, except white bass may be taken by use of a gig. These methods are lawful in all:
(1) Rivers and streams from December 1 through March 31, except:
(A) The taking of paddlefish by use of gig, spear or speargun is prohibited from May 16 through March 14 of the following year, statewide.
(B) The Poteau and Fourche Maline Rivers and all their tributaries within LeFlore County are closed throughout the year.
(C) All waters designated as "Designated Trout Areas" during the open season for taking trout are closed.
(D) The Canadian River from Eufaula Dam downstream for a distance of one (1) mile to be so designated by buoy or other appropriate marker is closed throughout the year.
(E) The Caney River from Hulah Dam downstream to the confluence of the old and new river channels is closed.
(F) The following portions of Grand River:
(i) The main river channel of the Grand River below the turbine outlets of Grand River Dam downstream to State Park Bridge is closed throughout the year.
(ii) The Grand River occurring below the spillway outlets of Grand River Dam downstream for a distance of one (1) mile is closed throughout the year.
(G) Rivers and streams in Delaware and Mayes counties are open to the use of gigs throughout the year, unless specifically closed in other sections of this chapter.
(H) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.
(I) The Salt Fork of the Arkansas River from the spillway of Great Salt Plains Reservoir downstream to the State Highway 38 bridge.
(2) Lakes and reservoirs throughout the year, except:
(A) Waters within the boundaries of the Wichita Mountains Wildlife Refuge other than that portion of Lake Elmer Thomas are closed.
(B) Tenkiller Reservoir, below the Horseshoe Bend boat ramp, is closed throughout the year except by speargunning when used with a self-contained underwater breathing apparatus which is closed from June 15 through July 15 annually to the taking of flathead catfish only.
(C) All Department Fishing Areas, all "Close To Home" fishing waters and Lakes Carl Albert, Sooner, Lone Chimney and Taft and all ponds and lakes in the Ouachita National Forest are closed. Konawa is closed to gigging.

(D) Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper are closed.

(3) Reservoir tailwaters other than Hudson (Markham Ferry) shall be closed to fishing with gigs, spears and spearguns throughout the year. This does not alter provisions of 29 O.S., Section 7-101, which designates a safety zone of the first 150 feet immediately below the dam on all reservoirs except Tenkiller, Canton, Salt Plains, and Fort Supply.

(d) **Snagging.** Snagging for nongame fish only shall be lawful in all waters of the State throughout the year, except:

(1) Reservoir tailwaters other than Fort Gibson which is open from 6:00 a.m. to 10:00 p.m. shall be closed to fishing by snagging throughout the year. This does not alter provisions of 29 O.S., Section 7-101, which designates a safety zone of the first 150 feet immediately below the dam on all reservoirs except Tenkiller, Canton, Salt Plains, and Fort Supply.

(2) Wister tailwater is closed to snagging from below the dam down to the power-line at the confluence of the old and new river channels.

(3) The following rivers, lakes, and streams:

(A) The Illinois River and its tributaries above the Horseshoe Bend boat ramp on Tenkiller Reservoir and below the dam shall be closed at all times to such fishing.

(B) All waters designated as "Designated Trout Areas" during the open season for taking trout are closed.

(C) All waters within the boundaries of the Wichita Mountains Wildlife Refuge are closed.

(D) The Canadian River from Eufaula Dam tailwater downstream for a distance of one (1) mile to be so designated by buoy or other appropriate marker is closed throughout the year.

(E) The Caney River from the Hulah Dam downstream to the confluence of the old and new river channels is closed.

(F) The following portions of the Grand River:

(i) The main river channel of Grand River below the turbine outlets of Grand River Dam downstream to the State Park Bridge is closed throughout the year.

(ii) That portion of the Grand River occurring below the spillway outlets of Grand River Dam downstream to the highline crossing (a distance of approximately ½ mile) is closed throughout the year with the next ½ mile downstream from the highline crossing closed during periods when the spillway gates are closed.

(iii) That portion of the Grand River occurring from the Markham Ferry Dam (Lake Hudson Dam) downstream to the Highway 412 bridge from 10 p.m. to 6 a.m. year-round.

(G) The Arkansas River from Zink Dam for 800 feet downstream between April 15 – May 15.

(H) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.

(I) All Department Fishing Areas, all "Close To Home" fishing waters and Lakes Pickens, Carl Albert, Sooner and Konawa and all ponds and lakes in the Ouachita National Forest are closed.

(J) Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper are closed.

(4) When snagging for paddlefish the hook must have the barbs removed or completely closed. Only one (1) rod and reel is permitted per angler when snagging.

(5) All snagging shall be closed from 10:00 p.m. to 6:00 a.m. in the areas east of I-35 and north of I-40 except the Miami City Park from the south boat ramp to the 125 Highway bridge which shall remain open.

(e) **Noodling.** Possession of hooks, gaffs, spears, poles with hooks attached and/or ropes with hooks attached while in the act of noodling, shall be proof of violation of the "hands only" noodling law. Noodling shall be lawful for nongame fish and blue, channel, and flathead catfish; only during daylight hours throughout the year.

(1) Rivers and streams of the state, except:

(A) The Illinois River and its tributaries above Horseshoe Bend boat ramp on Tenkiller Reservoir and below the dam shall be closed at all times to such fishing.

(B) All waters designated as "Designated Trout Areas" during the open season for taking trout are closed.

(C) Kiamichi River from Hugo Dam downstream to the first railroad bridge is closed.

(D) The following portions of the Grand River:

(i) The main river channel of Grand River below the turbine outlets of Grand River Dam downstream to the State Park Bridge is closed throughout the year.

(ii) The Grand River occurring below the spillway outlets of Grand River Dam downstream to the highline crossing is closed throughout the year except the day of and two (2) days following closure of the spillway gates when noodling will be legal.

(E) The Little River tributary of Thunderbird Reservoir above Franklin Road in Cleveland County is closed.

(F) Wister tailwaters is closed to noodling from below the dam down to the power-line at the confluence of the old and new river channels.

(G) The Salt Fork of the Arkansas River from the spillway of Great Salt Plains Reservoir downstream to the State Highway 38 bridge.

(2) Corps of Engineers and Bureau of Reclamation Reservoirs, Grand and Hudson Lakes.

(3) All waters within the boundaries of the Wichita Mountains Wildlife Refuge are closed.

(4) All Department Fishing Areas, all "Close To Home" fishing waters (except noodling is allowed in the North Canadian River from the NW 10th St. bridge downstream to the MacArthur St. bridge in Oklahoma City) and Lakes Pickens, Carl Albert, Taft, and Lone Chimney, Ponca and Carl Blackwell and all ponds and lakes in the Ouachita National Forest are closed.

(5) Lakes Hefner, Overholser (including tailwaters and downstream to NW 10th St. bridge) and Draper are closed.

(f) **Netting (noncommercial).** Netting (noncommercial) is closed statewide.

(g) **Collecting Bait for personal use.** Cast netting, trawl netting, dip netting, minnow traps and seining non-game fish commonly used for bait for personal use is lawful in all waters of this state unless specifically closed under 800:10-5-2, 800:10-5-3 and/or 800:10-5-6. Cast nets and dip nets shall have a mesh size no greater than three-eights (3/8) inch square mesh. Seines shall not exceed twenty (20) feet in length, and the mesh shall be no larger than one-half (½) inch square unless seining for minnows then the mesh shall not exceed one-fourth (1/4) inch. Minnow traps shall have a mesh size no greater than one-half (½) inch, shall not be longer than three (3) feet, shall not exceed eighteen (18) inches in diameter on round traps or eighteen (18) inches on a side on square or rectangular traps. The trap entrance (throat) cannot exceed two (2) inches across the opening. No person shall fish with more than 3 minnow traps. All minnow traps must have the owner's customer identification number attached and the traps must be attended once every 24 hours, and/or until December 31, 2024 traps may be labeled with a name and address. All game fish and non-game fish not commonly used for bait must be released immediately. Minnow traps cannot be made with glass.

[OAR Docket #24-744; filed 7-3-24]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 25. WILDLIFE RULES

[OAR Docket #24-745]

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. Hunter/Trapping on Oklahoma Tourism and Recreation Lands
800:25-1-7. ~~Dove~~Deer, Dove, Turkey and rabbit hunting on Foss State Park [AMENDED]
800:25-1-9. Deer and Waterfowl hunting on Ft. Cobb State Park [NEW]
800:25-1-10. Goose hunting on Great Plains State Park [NEW]
800:25-1-11. Deer Hunting on Salt Plains State Park [NEW]
800:25-1-12. Deer, Canada Goose, and Squirrel hunting on Sequoyah State Park [NEW]
Subchapter 3. Hunting on Corps of Engineers Lands [AMENDED]
800:25-3-2. Areas open to archery equipment and shotguns with pellets only [AMENDED]
Subchapter 7. General Hunting Seasons [AMENDED]
Part 13. DEER [AMENDED]
800:25-7-52. Deer - primitive firearms (muzzleloading) [AMENDED]
800:25-7-53. Deer - gun [AMENDED]
800:25-7-54. Legal firearms and archery specifications [AMENDED]
Part 18. MANAGEMENT OF PRIVATE LANDS [AMENDED]
800:25-7-75. General provisions [AMENDED]

Part 19. SEASONS ON AREAS OWNED OR MANAGED BY THE OKLAHOMA DEPARTMENT OF WILDLIFE CONSERVATION AND THE U.S. FISH AND WILDLIFE SERVICE [AMENDED]
800:25-7-83. Beaver River WMA [AMENDED]
800:25-7-83.1. Beaver River WMA - McFarland Unit [AMENDED]
800:25-7-87.1. Candy Creek WMA [AMENDED]
800:25-7-92.1. Cimarron Bluff WMA [AMENDED]
800:25-7-92.2. Cimarron Hills WMA [AMENDED]

AUTHORITY:
Title 29 O.S., Section 3-103, 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 5, 2023

COMMENT PERIOD:
November 1, 2023 through December 8, 2023

PUBLIC HEARING:
December 7, 2023

ADOPTION:
January 8, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 18, 2024

LEGISLATIVE APPROVAL:
N/A

LEGISLATIVE DISAPPROVAL:
N/A

APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024

EFFECTIVE:
August 11, 2024

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:
N/A

GUBERNATORIAL APPROVAL:
N/A

REGISTER PUBLICATION:
N/A

DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:
N/A

INCORPORATING RULES:
N/A

AVAILABILITY:
N/A

GIST/ANALYSIS:
This rule change is to develop to clarify the definition of equipment used for bowfishing and correcting the name of Grand River Dam to Pensacola Dam.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. HUNTER/TRAPPING ON OKLAHOMA TOURISM AND RECREATION LANDS

800:25-1-7. ~~Dove~~Deer, Dove, Turkey and rabbit hunting on Foss State Park [AMENDED]

The following hunting seasons apply to Foss State Park, all shotgun hunting restricted to federally approved non-toxic shot and areas open to hunting are to be determined annually and published in the Oklahoma Hunting Guide:

(1) Dove: September 15 - October 31.

(2) Rabbit: October 1 - February 15.

(3) Deer – controlled hunts only.

(4) Turkey – controlled hunts only

800:25-1-9. Deer and Waterfowl hunting on Ft. Cobb State Park [NEW]

The following seasons apply to Ft. Cobb State Park. All shotgun is restricted to federally approved non-toxic shot.

(1) Deer – Controlled hunts only.

(2) Waterfowl – Controlled hunts only.

800:25-1-10. Goose hunting on Great Plains State Park [NEW]

The following seasons apply to Great Plains State Park; all shotgun hunting is restricted to federally approved non-toxic shot. Goose Hunting – controlled hunts only. Hunting only in blinds approved by Great Plains State Park.

800:25-1-11. Deer Hunting on Salt Plains State Park [NEW]

The following seasons apply to Salt Plains State Park. Deer – Controlled hunts only.

800:25-1-12. Deer, Canada Goose, and Squirrel hunting on Sequoyah State Park [NEW]

The following seasons apply to Sequoyah State Park.

(1) Deer – Controlled hunts only.

(2) Canada Goose – Controlled hunts only.

(3) Squirrel – Controlled hunts only. Firearms are restricted to shotguns with pellets.

SUBCHAPTER 3. HUNTING ON CORPS OF ENGINEERS LANDS [AMENDED]

800:25-3-2. Areas open to archery equipment and shotguns with pellets only [AMENDED]

The following Corps of Engineers areas are open to archery equipment and shotguns with pellets only:

(1) Canton Lake: A 80-acre unit above Highway 58A in the Sandy Cove Area.

(2) Keystone Lake:

(A) A 460-acre unit including land north and south of the Cowskin North Recreation Area.

(B) A 200-acre unit on the west side of the north end of the Highway 64 bridge.

(C) A 530-acre unit north of the New Mannford Ramp area.

(D) A 480-acre unit east of the Cimarron Park area.

(E) A 100-acre unit north and south of the Pawnee Cove Access Point.

(F) A 200-acre unit in the Old Mannford Ramp area.

(G) A 280-acre unit on the south side of the road ending at Washington Irving North.

(H) A 120-acre unit west and south of the Sinnett Cemetery and south of the old Keystone road.

(I) A 200-acre unit south of Highway 51 on Bakers Branch.

(J) A 135-acre area on the west side of Walnut Creek (old Walnut Creek #3).

(3) Hugo Lake: Except, archery only during all deer seasons.

(A) A 2,373-acre unit in the Kiamichi Park Area. Open for hunting for all species that can be legally taken during legal open seasons by archery equipment and shotgun with pellets, except closed the first Tuesday through Sunday in October and the first Tuesday through Sunday in December.

~~(B) A 418-acre unit in the Salt Creek Area.~~

(~~C~~B) A 478-acre unit in the Wilson Point Area.

(~~D~~C) A 481-acre unit in the Virgil Point Area.

(~~E~~D) A 280-acre unit in the Sawyer Bluff Area.

(~~F~~E) A 60-acre unit in the Rattan Landing Area.

(~~G~~F) A 500-acre unit in the embankment area above Hugo Dam.
(~~H~~G) A 475-acre unit lying South of the physical creek of Salt Creek on Hugo Lake.
(4) Tenkiller Ferry Lake: A 110-acre unit north of the asphalt road and east of Highway 10A.
(5) Copan Lake: Except, archery equipment only during all deer seasons.
(A) A 650-acre unit below the dam.
(B) A 100-acre unit east and southeast of Copan Point Park.
(C) Three islands north of Washington Cove Park.
(6) Fort Gibson Lake:
(A) A 300-acre unit on the north side of North Bay.
(B) A 800-acre unit on the south side of the Chouteau Creek, starting at Highway 69 and running east and south to Highway 33.
(C) A 320-acre unit across the lake from the Chouteau Bend Recreation Area.
(D) A 480-acre unit on the west side of Mallard Bay.
(E) A 103 -acre unit in Section 13 of the Blue Bill Point housing addition.
(F) A 160-acre unit west of the town of Murphy.
(G) A 650-acre unit on Pryor Creek beginning on the east side of Highway 69 in Sections 29, 30 & 31.
(H) A 190-acre unit in the south ½ of Section 12, north of the Blue Bill Recreation Area.
(I) A 120-acre unit west of the town of Hulbert.
(J) A 515-acre unit on the south side of Mallard Bay.
(K) A 488-acre unit on the south side of Whitehorn Cove Concession.
(7) Sardis:
(A) A 950-acre unit in the Potato Hills Area.
(B) A 100-acre unit in the Sardis Cove Area.
(8) Webbers Falls Lock and Dam 16:
(A) A 37-acre unit on the peninsula north of the lock and dam.
(B) A 150-acre unit in the Hopewell Park Area.
(C) A 150-acre unit in the Brewer's Bend Area only open for hunting 1 December through 28 February.
(D) A 50-acre unit south of the Spaniard Creek Area.
(E) A 60-acre unit off Lock View access road and south of the project office.
(F) A 750-acre unit North of Three Forks Harbor to Grand River Bridge.
(G) A 265-acre unit from Grand River Bridge to Highway 16 Bridge near Okay.
(H) A 62.9-acre unit between Highway 16 and the Muskogee Turnpike.
(9) Lake Texoma:
(A) A 380-acre unit below Denison Dam.
(B) A 160-acre unit in the Willow Springs Area.
(C) A 100-acre unit in the Buncombe Creek West Area
(D) A 110-acre unit on the Limestone Creek Area.
(E) A 250-acre unit on the Treasure Island, North Island Group.
(F) A 512-acre unit in the McLaughlin Creek Southwest Area.
(G) A 1,100-acre unit in the Washita Point Area.
(H) A 300-acre unit south of the Butcher Pen Area.
(I) A 800-acre unit on either side of Highway 70 on the east side of the lake.
(J) A 650-acre unit in the Lakeside West and South Area.
(K) A 420-acre unit in the Lebanon Area.
(L) A 226-acre unit on the west side of Wilson Creek.
(M) A 130-acre unit in the Caney Creek Area.
(O) A 170-acre unit in the Oakview North Area.
(P) A 115-acre unit in the North Platter Flats Area.
(Q) A 95-acre unit in the Newberry Creek South Area.
(10) Kaw Lake:
(A) A 280-acre unit in the Traders Bend Area.
(B) A 320-acre unit in the Sarge Creek Cove Area.
(C) A 220-acre unit in the Burbank Landing Area.
(D) A 110-acre unit between Sandy Park Swim Beach and Osage Cove.

(E) A 100-acre unit in the Bear Creek Cove, open for hunting only from 15 September through 15 February.
(F) A 186-acre unit south of Camp McFadden and north of a housing addition.

(11) Eufaula Lake:
(A) Open for archery equipment 1 October through 28 February and open for shotguns with pellets from 1 November through 28 February.
(i) A 165 -acre unit in the Highway 31 Landing Area.
(ii) A 128 -acre unit in Holiday Cove Recreation Area.
(iii) A 200-acre unit in Hickory Point Recreation Area.
(iv) A 90 -acre unit in the Gentry Creek Recreation Area.
(B) Open for hunting for all species that can be legally taken during legal open seasons by archery equipment and shotguns with pellets.
(i) A 275-acre unit known as Duchess Creek Island.
(ii) A 47-acre unit in Juniper Park.
(iii) A 99-acre unit in the Coal Creek area.
(iv) A 69-acre unit southwest of the city of Crowder.
(v) A 116-acre unit east of the city of Crowder.
(vi) A 95-acre unit in the Rock Creek Heights area.
(vii) A 63-acre unit around Highway 9 Marina.
(viii) A 411-acre unit in the area of Highway 9A.
(ix) A 247-acre unit known as Bunny Creek.
(x) A 251-acre unit in Sandy Bass Bay.
(xi) A 32-acre unit in Dam Site area.
(xii) A 95-acre unit below Eufaula Dam, north of the river
(C) Open for hunting for all species that can be legally taken during legal open seasons by archery equipment and shotguns with pellets, except for the 2nd Friday through Monday in December: A 395-acre unit in the Brooken Cove Recreational Area.
(D) Open for hunting for all species that can be legally taken during legal open seasons by archery equipment and shotguns with pellets only, except closed the 3rd Friday of October through the 1st weekend of November: A 533-acre unit in the Gaines Creek Recreational Area.

(12) Chouteau Lock and Dam 17: All lands beginning from the MK&T Railroad below Chouteau Lock and Dam 17 and continuing upstream to Newt Graham Lock and Dam 18, except that Pecan Park is open to hunting with archery equipment only and the Chouteau Lock and Dam 17 has a 600 yard "No Hunting" buffer area around both the lock and dam, and that Coal Creek Access Point and Afton Landing Park are closed to all hunting.

(13) Hulah Lake:
(A) A 200-acre unit in the Turkey Creek Point Area.
(B) A 60-acre unit below Hulah Dam.
(C) A 375-acre unit in the Caney Bend Area.

(14) Wister Lake: A 400-acre unit east of the uncontrolled spillway and Glendale Dike.

(15) Oologah Lake:
(A) A 80-acre unit on the east side of Blue Creek Park.
(B) A 180 acre-unit on the south side of Spencer Creek Park.
(C) A 120-acre unit east of Double Creek Park.

(16) Waurika Lake: All lands presently designated as open to public hunting, except fall turkey hunting is archery only.

(17) Newt Graham Lock and Dam 18: All lands beginning from Newt Graham Lock and Dam 18 and continuing upstream to Interstate 44, except that the Newt Graham Lock and Dam 18 has a 600 yard 'No Hunting' buffer area around it, and that Bluegill Access Point, Highway 33 Access Point and Bluff Landing Public Use Area are closed to all hunting.

(18) Pine Creek Lake: Except, archery only during all deer seasons.
(A) A 280-acre unit below Pine Creek Dam.
(B) A 225-acre unit within Little River Park open November 1 – January 15.
(C) A 190-acre unit within Pine Creek Cove open November 1 – January 15.
(D) A 530-acre unit upstream and downstream of the dike, SW of Pine Creek Cove.
(E) A 500-acre unit north of Little River Park and South of the old highway.

(F) A 345-acre unit within Little River Park open November 1 – January 15 except closed the 2nd Tuesday – Sunday in November.

(G) A 200-acre unit North of Highway 3 and South of the old highway except closed from the 2nd Tuesday – Sunday in November.

SUBCHAPTER 7. GENERAL HUNTING SEASONS [AMENDED]

PART 13. DEER [AMENDED]

800:25-7-52. Deer - primitive firearms (muzzleloading) [AMENDED]

The following hunting dates, open areas, bag limits and legal means of taking apply to deer hunting with primitive (muzzleloading) firearms:

(1) **Dates.** The dates for the deer primitive (muzzleloading) firearms seasons shall be the fourth Saturday in October continuing nine days through Sunday.

(2) **Open areas**. The season is open statewide.

(3) **Bag limit.** Up to six (6) deer including no more than one (1) antlered deer. A separate license is required for each deer to be hunted or harvested. All deer taken are included in the combined season statewide bag limit. Individual Management Zone antlerless bag limits and antlerless days will be determined by resolution and be published in the Hunting Guide. An unfilled muzzleloading antlered license may be used to harvest an antlerless deer in designated areas on the last day of the primitive (muzzleloading) season.

(4) **Legal means of taking**. The legal means of taking deer with primitive (muzzleloading) firearms shall be as follows:

(A) Muzzleloading rifles, shotguns and pistols: 40 caliber or larger rifle or pistol, or 20 gauge or larger shotgun, firing a single slug or ball that is loaded from the muzzle.

(B) Air powered arrow rifles as described in 800: 25-7-54(6).

(~~B~~C) Archery equipment described as legal for the deer archery season may be used during the primitive (muzzleloading) firearms season. The hunter shall have the option of hunting with a primitive (muzzleloading) license or an archery license. If hunting with a primitive (muzzleloading) license, the bag limit is one antlered deer, except as otherwise provided.

(~~C~~D) Persons hunting with archery equipment with either archery or primitive (muzzleloading) license are required to wear either the upper garment or head covering as described in 800:25-7-3(c).

(~~D~~E) No person shall carry or use any modern firearm in conjunction with any legal primitive firearm (muzzleloading) during the primitive firearm (muzzleloading) deer season while hunting deer with a muzzleloader, except under the provisions of the Oklahoma Self-Defense Act.

800:25-7-53. Deer - gun [AMENDED]

The following hunting dates, bag limits and legal means of taking apply to hunting deer with gun:

(1) **Dates.** The dates for the deer gun season shall be the Saturday prior to Thanksgiving and run for sixteen (16) consecutive days in management zones as designated by Commission resolution.

(2) **Bag limit**. Up to six (6) deer including no more than one (1) antlered deer. A separate license is required for each deer to be hunted or harvested. All deer taken are included in the combined season statewide bag limit. Individual Management Zone antlerless bag limits and antlerless days will be determined by resolution and published in the Hunting Guide. An unfilled deer gun antlered license may be used to harvest an antlerless deer in designated areas on the last day of the deer gun season.

(3) **Legal means of taking**. The legal means of taking deer with gun shall be as follows:

(A) Rifles (conventional or muzzleloading), handguns, shotguns or bow and arrows, see 800:25-7-54. All public lands within the state are open to rifles, handguns, shotguns or bows unless otherwise specified.

(B) Muzzleloading firearms that are legal for the primitive (muzzleloading) season shall also be legal in all areas open to rifles, except black powder firearms loaded from the breech are also legal. Metallic and/or optical sights may also be used on muzzleloading firearms during the deer gun season. Muzzleloading pistols (single shot or revolver) with characteristics that are described for rifles are permissible.

(C) Hunters choosing to hunt with primitive (muzzleloading) firearms, air powered arrow rifles or air rifles must possess appropriate deer gun license and comply with fluorescent clothing and bag limit requirements as set for the Deer Gun Season.
(D) Laser sights are illegal.
(E) Air powered arrow rifles shall be legal during any open rifle season. No arrow rifle may be transported in a motorized vehicle unless projectile has been removed from the barrel assembly and arrow rifle has been decocked.

(4) **Zone Management Hunts**

(A) Dates and open areas: The Commission may, by resolution, establish an antlerless deer gun season at any time in designated management zones or on designated Wildlife Management Areas, as published in the current Oklahoma Hunting Guide and Regulations, during any dates as established by the Commission.
(B) Bag Limit: Zone Management Hunt bag limits will be established by resolution. Antlerless deer taken during a Zone Management Hunt are considered bonus deer and do not count against the statewide deer bag limit. Unfilled deer gun licenses for the deer gun season or controlled hunts are not valid for Zone Management Hunts.
(C) Legal means of taking: Same as deer gun season.

(5) **The harvest of antlerless mule deer shall be prohibited during the deer gun seasons.**

800:25-7-54. Legal firearms and archery specifications [AMENDED]

The following are the legal firearms specifications for rifles, muzzleloading firearms, shotguns, handguns and bows:

(1) **Rifles.** Centerfire rifles only and firing ammunition with a soft-nosed or hollow point bullet are legal if firing at least a 55-grain weight bullet. Fully automatic firearms are prohibited.
(2) **Muzzleloading firearms.** Muzzleloading rifles and shotguns that are legal for the muzzleloading season shall also be legal in all areas open to rifles, except black powder firearms loaded from the breech are also legal. Muzzleloading pistols (singleshot or revolver) with characteristics that are described for 40 caliber rifles are permissible as a secondary firearms, but may be used only for killing a downed animal.
(3) **Shotguns.** Any centerfire shotgun firing a single rifled slug.
(4) **Handguns.** Any centerfire handgun firing a single soft-nosed or hollow point bullet with at least a 55-grain weight. Fully automatic firearms are prohibited.
(5) **Bows, arrows, and bolts.** A legal bow is defined as any bow of thirty (30) pounds or more draw weight, any recurve, longbow, or self-bow of forty (40) pounds or more draw weight or any crossbow having a draw weight of 100 pounds or more and being equipped with safety devices. Crossbow bolts must be a minimum of 14 inches in length. Legal arrows and bolts for deer shall be fitted with broadhead hunting type points not less than 7/8 inches wide, including mechanical broadheads meeting these dimensions when fully open. Devices that permit a bow to be held mechanically at full or partial draw are permitted. Laser sights are prohibited. Hand-held releases are permitted.
(6) **Arrow rifle**. A device that fires an arrow or bolt solely by the use of unignited compressed gas as the propellant. Legal arrow rifles will maintain a minimum of 2000psi and have a visible pressure gauge to prove proper pressure. Legal arrows and bolts shall be a minimum of 18 inches in length with fletching for stability and fitted with a broadhead hunting type point not less than 7/8 inches wide, including mechanical broadheads meeting these dimensions when fully open. Arrow rifles are only to be used during open rifle and muzzleloader seasons and are not permitted during archery ~~or muzzleloader seasons~~season.

PART 18. MANAGEMENT OF PRIVATE LANDS [AMENDED]

800:25-7-75. General provisions [AMENDED]

The following general provisions apply to privately owned lands that are managed or leased and opened for public use by the Oklahoma Department of Wildlife Conservation.

(1) An annual Special Use Permit (Access Permit) of ~~$39.00~~$99.00 plus $1.00 vendor fee for resident and ~~$84.00~~$199.00 plus $1.00 vendor fee for nonresident will be required of all persons who ~~on or after January 1,1997~~, hunt, fish or otherwise use private lands ~~in 4,000 acre blocks or larger~~ leased ~~an~~and/or administrated by the Wildlife Department unless otherwise provided.

(2) Legal residents of Oklahoma who are under 18 years of age on the first day of the current calendar year or are 64 years of age or older shall be exempt from the Special Use Permit (Access Permit) requirements.
(3) A Three(3) Day Special Use Permit of ~~$9.00~~$19.00 plus $1.00 vendor fee for residents is available to allow residents to use the private land administered by the Department of Wildlife Conservation for non-hunting or non-fishing related activities unless exempt except on OLAP lands limited to hunting only. [Oklahoma Statute as Section 4-136 of Title 29]

PART 19. SEASONS ON AREAS OWNED OR MANAGED BY THE OKLAHOMA DEPARTMENT OF WILDLIFE CONSERVATION AND THE U.S. FISH AND WILDLIFE SERVICE [AMENDED]

800:25-7-83. Beaver River WMA [AMENDED]

The following hunting and trapping seasons apply to the Beaver River WMA:
(1) Quail: Same as statewide dates, except closed ~~during deer primitive and~~ the first nine days of deer gun season and closed to nonresidents from February 1 to end of season. Hunting hours close at 4:30 p.m. daily.
(2) Pheasant: Same as statewide season dates and bag limit, except closed during first nine days of deer gun season. Hunting hours close at 4:30 p.m. daily.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Same as statewide season dates.
(B) Gun: Same as statewide season dates, shotgun only.
(5) Turkey - Spring: Same as statewide season dates, 1 tom limit. Hunting hours close at 7:00 p.m. daily.
(6) Squirrel: Same as statewide dates, except closed during first nine days of deer gun season.
(7) Rabbit: Same as statewide dates, except closed during first nine days of deer gun season.
(8) Crow: Same as statewide season dates, except closed during first nine days of deer gun season.
(9) Dove: Same as statewide season dates.
(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide dates, except closed during first nine days of deer gun season.
(12) Woodcock: Same as statewide dates, except closed during first nine days of deer gun season.
(13) Deer - archery: Same as statewide season dates.
(14) Deer - primitive: Same as statewide season dates, except closed to mule deer ~~antlerless~~ hunting.
(15) Deer - gun: Controlled hunts only.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only except open to statewide regulations from February 1 to the end of February.
(17) Pursuit with hounds: Closed season.
(18) Predator/furbearer calling: Same as statewide dates, except closed during deer gun season.
(19) Waterfowl: Same as statewide season dates, except closed during deer gun season.

800:25-7-83.1. Beaver River WMA - McFarland Unit [AMENDED]

The following hunting and trapping seasons apply to the McFarland Unit on Beaver River WMA: ~~That portion of the McFarland Unit lying in Section 1 & 12, T4N, R23E and Section 7, T4N, R24E are restricted to archery and shotgun with pellets only.~~
(1) Quail: Same as statewide season dates, except closed the first nine days of deer gun season and closed to nonresidents from February 1 to end of season. Hunting hours close at 4:30 p.m. daily.
(2) Pheasant: Same as statewide season dates and bag limit, except closed during the first nine days of deer gun season. Hunting hours close at 4:30 p.m. daily.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Same as statewide season dates.
(B) Gun: Same as statewide season dates, shotgun only.
(5) Turkey - Spring: Same as statewide season dates, 1 tom limit. Hunting hours close at 7:00 p.m. daily.
(6) Squirrel: Same as statewide dates, except closed during first nine days of deer gun season.
(7) Rabbit: Same as statewide dates, except closed during first nine days of deer gun season.
(8) Crow: Same as statewide season dates, except closed during first nine days of deer gun season.
(9) Dove: Same as statewide season dates.

(10) Rail and gallinule: Same as statewide season dates.
(11) Common snipe: Same as statewide dates, except closed during first nine days of deer gun season.
(12) Woodcock: Same as statewide dates, except closed during first nine days of deer gun season.
(13) Deer - archery: Same as statewide season dates, except closed during first nine days of deer gun season.
(14) Deer - primitive: ~~Controlled Hunts Only~~Same as statewide season dates, except closed to mule deer hunting.
(15) Deer - gun: Controlled Hunts Only.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only except open to statewide regulations from February 1 to the end of February.
(17) Pursuit with hounds: Closed season.
(18) Predator/furbearer calling: Same as statewide dates, except closed during deer gun season.
(19) Waterfowl: Same as statewide season dates, except closed during deer gun season.

800:25-7-87.1. Candy Creek WMA [AMENDED]

The following hunting and trapping seasons apply to the Candy Creek WMA:
(1) Quail: Same as statewide season dates, except closed during the first nine (9) days of deer gun season.
(2) Pheasant: Closed Season.
(3) Prairie Chicken: Closed Season.
(4) Turkey - Fall
(A) Archery: Same as statewide season dates.
(B) Gun: Same as statewide season dates; shotgun only.
(5) Turkey - Spring: Same as statewide season dates, 1 tom limit.
(6) Squirrel: September 1 - ~~January 15~~February 28, except closed during the first nine (9) days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed during the first nine (9) days of deer gun season.
(8) Crow: Same as statewide season dates, except closed during the first nine (9) days of deer gun season.
(9) Dove: Same as statewide season dates.
(10) Rail and Gallinule: Same as statewide season dates.
(11) Common Snipe: Same as statewide season dates, except closed the first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed the first nine days of deer gun season.
(13) Deer-archery: Same as statewide season dates.
(14) Deer-primitive firearms: Controlled hunts only.
(15) Deer-gun: Controlled hunts only.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only.
(17) Pursuit with hounds: Same as statewide season dates, except closed March 16 - August 31 and the first nine (9) days of deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates, except closed March 16 - August 31and the first nine (9) days of deer gun season.
(19) Waterfowl: Same as statewide season dates, except closed during the first nine (9) days of deer gun season.

800:25-7-92.1. Cimarron Bluff WMA [AMENDED]

The following hunting and trapping seasons apply to the Cimarron Bluff WMA:
(1) Quail: Same as statewide season dates, except closed during the first nine days of deer gun season and closed to nonresidents from February 1 to end of season. Hunting hours close at ~~12:00 noon~~4:30PM daily.
(2) Pheasant: Same as statewide season dates, except closed during the first nine days of deer gun season. Hunting hours close at ~~12:00 noon~~4:30PM daily.
(3) Prairie chicken: Closed season.
(4) Turkey-Fall:
(A) Archery: Same as statewide season dates.
(B) Gun: Same as statewide season dates, shotgun only.
(5) Turkey-Spring: Same as statewide season dates, One (1) tom limit. Hunting hours close at 7:00 p.m. daily.
(6) Squirrel: Same as statewide season dates, except closed during first nine days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed during the first nine days of deer gun season.
(8) Crow: Same as statewide season dates, except closed during the first nine days of deer gun season.
(9) Dove: Same as statewide season dates, except closed during the first nine days of deer gun season.
(10) Rail and gallinule: Same as statewide season dates, except closed during the first nine days of deer gun season.

(11) Common snipe: Same as statewide season dates, except closed during the first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed during the first nine days of deer gun season.
(13) Deer-archery: Same as statewide season dates.
(14) Deer-primitive firearms: Controlled Hunts Only.
(15) Deer-gun: Controlled Hunts Only.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only except open to statewide regulations from February 1 to the end of February.
(17) Pursuit with hounds: Same as statewide season dates, except closed during deer muzzleloader season and deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates, except closed the first nine days of deer gun season.
(19) Waterfowl: Same as statewide season dates, except closed during the first nine days of deer gun season.

800:25-7-92.2. Cimarron Hills WMA [AMENDED]

The following hunting and trapping seasons apply to the Cimarron Hills WMA:
(1) Quail: Same as statewide season dates, except closed during the first nine days of deer gun season and closed to nonresidents from February 1 to end of season. Hunting hours close at ~~12:00 noon~~4:30PM daily.
(2) Pheasant: Same as statewide season dates, except closed during the first nine days of deer gun season. Hunting hours close at ~~12:00 noon~~4:30PM daily.
(3) Prairie chicken: Closed season.
(4) Turkey - Fall:
(A) Archery: Same as statewide season dates.
(B) Gun: Same as statewide season dates, shotgun only
(5) Turkey - Spring: Same as statewide season dates, One (1) tom limit. Hunting hours close at 7:00 p.m. daily.
(6) Squirrel: Same as statewide season dates, except closed the first nine days of deer gun season.
(7) Rabbit: Same as statewide season dates, except closed during the first nine days of deer gun season.
(8) Crow: Same as statewide season dates, except closed during the first nine days of deer gun season.
(9) Dove: Same as statewide season dates, except closed during the first nine days of deer gun season.
(10) Rail and gallinule: Same as statewide season dates, except closed during the first nine days of deer gun season.
(11) Common snipe: Same as statewide season dates, except closed during the first nine days of deer gun season.
(12) Woodcock: Same as statewide season dates, except closed during the first nine days of deer gun season.
(13) Deer - archery: Same as statewide season dates.
(14) Deer - primitive firearms: Controlled Hunts Only.
(15) Deer - gun: Controlled Hunts Only.
(16) Trapping: Open to water sets, live box traps, and enclosed trigger traps only except open to statewide regulations from February 1 to the end of February.
(17) Pursuit with hounds: Same as statewide season dates, except closed during deer muzzleloader season and deer gun season.
(18) Predator/furbearer calling: Same as statewide season dates, except closed during the first nine days of deer gun season.
(19) Waterfowl: Same as statewide season dates, except closed during the first nine days of deer gun season.

[OAR Docket #24-745; filed 7-3-24]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION
CHAPTER 30. DEPARTMENT OF WILDLIFE LANDS MANAGEMENT

[OAR Docket #24-746]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 1. Use of Department Managed Lands [AMENDED]

800:30-1-2. Use restrictions [AMENDED]
800:30-1-6. Littering [AMENDED]
800:30-1-16. Shooting ranges [AMENDED]

AUTHORITY:
Title 29 O.S., Section 3-103, 5-401; Article XXVI, Section 1 and 3 of the Constitution of Oklahoma; Department of Wildlife Conservation Commission.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
October 5, 2023

COMMENT PERIOD:
November 1, 2023 through December 8, 2023

PUBLIC HEARING:
December 7, 2023

ADOPTION:
January 8, 2024

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
January 18, 2024

LEGISLATIVE APPROVAL:
N/A

LEGISLATIVE DISAPPROVAL:
N/A

APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's declaration on June 21, 2024

FINAL ADOPTION:
June 21, 2024

EFFECTIVE:
August 11, 2024

SUPERSEDED EMERGENCY ACTIONS:

SUPERSEDED RULES:
N/A

GUBERNATORIAL APPROVAL:
N/A

REGISTER PUBLICATION:
N/A

DOCKET NUMBER:
N/A

INCORPORATIONS BY REFERENCE:

INCORPORATED STANDARDS:
N/A

INCORPORATING RULES:
N/A

AVAILABILITY:
N/A

GIST/ANALYSIS:
This rule will close prairie dog hunting on Cooper, Beaver River and Sandy Sanders Wildlife Management Areas, add shotgun hulls and cartridge casings to the definition of littering on Wildlife Management Areas and update regulations for shooting ranges and archery ranges on Department owned or managed lands.

CONTACT PERSON:
Bill Dinkines, Chief of Wildlife Division, phone: 405-521-2739 or Tammy St Yves, APA Liaison, phone: 405-522-6279; 1801 N. Lincoln Blvd, Oklahoma City, Oklahoma.

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 11, 2024:

SUBCHAPTER 1. USE OF DEPARTMENT MANAGED LANDS [AMENDED]

800:30-1-2. Use restrictions [AMENDED]

The following restrictions apply to Oklahoma Department of Wildlife managed lands:

(1) **Wildlife Management Areas**. All lands owned, licensed, leased or under the management of the Wildlife Division of the Oklahoma Department of Wildlife Conservation, except for the McCurtain County Wilderness Area, are designated Wildlife Management Areas (WMA) to accurately reflect the overall objectives for these lands and the results of management activities conducted thereon. Depending on the specific management objectives, all or parts of any particular wildlife management area may also be designated as a public hunting area, game management area or migratory bird refuge, or wetland development unit.

(2) **Public Hunting Areas**. On a Public Hunting Area (PHA portion), all legal forms of wildlife harvest are permitted under statewide hunting, fishing and furbearer regulations unless specific regulations for the area indicate otherwise.

(3) **Game Management Areas**. A Game Management Area (GMA portion) is closed to all wildlife harvest, except as specifically permitted by Commission action.

(4) **Migratory Bird Refuges**. A designated Migratory Bird Refuge or Waterfowl Refuge Portion (WRP) is closed to all public use and access during the period of October 15 - January 31, except as specifically permitted by Commission action or special hunt permittee's on days of their hunt unless specifically noted otherwise. In addition, unless otherwise provided, all shotgun hunting is restricted to federally approved nontoxic shot and the possession of lead shot is prohibited.

(5) **Wetland Development Units.** Areas designated as Wetland Development Units (WDU) are open for hunting as published annually in the Oklahoma Fishing and Hunting Regulations. Shooting hours for waterfowl are ½ hour before official sunrise until 1 p.m. daily. Unless otherwise provided, all shotgun hunting is restricted to federally approved nontoxic shot and the possession of lead shot is prohibited.

(6) **Wilderness Area.** On the Wilderness Area, there shall be no public entry except by persons possessing prior written permission from the Director of the Department of Wildlife Conservation or his designated representatives; Department employees; or by the Oklahoma Board of Agriculture, Division of Forestry personnel engaged in fire protection or suppression activities. The self-guided nature trail on the McCurtain County Wilderness Area does not fall under these restrictions.

(7) **Closed areas.** Closed areas within larger management units may not be open to specific types of hunting or other activities on a year-round basis. Other uses may be permissible according to the above priorities insofar as they do not conflict with the specific objectives assigned to these closed areas. Those areas are:

(A) An 80-acre portion of Canton WMA described as N/2 NE/4 of Section 3, T19N, R14W; Dewey County~~-~~, Beaver River WMA, Cooper WMA, and Sandy Sanders WMA. Prairie Dog Refuge -closed to prairie dog hunting.

(B) All recreation areas located on National Forest lands including Cedar Lake, Billy Creek and Winding Stair in the Ouachita WMA, Kulli and Bokohoma in the Ouachita WMA, Skipout, Spring Creek and Dead Indian in Black Kettle WMA are closed to hunting.

(C) That portion of the Corps of Engineers Lock and Dam 17 (Chouteau) project under license to the Oklahoma Department of Wildlife Conservation in Sections 4, 9, and 10, T16N, R18E, Wagoner County; all licensed lands lying south and west of the center of the Navigation Channel, as described by the Corps of Engineers, and north of the paved road leading to Lock and Dam 17 are open to fishing and non-hunting public use from February 1 to October 14 and for special hunt permittees on the days of their hunt. Public access for wildlife viewing is allowed from old Hwy 69 road pavement and bridge as signed. Lands lying west of new Hwy 69 are open for hunting, fishing, and public use from February 1 to October 14, and lands lying east of old Hwy 69, are only open to fishing and non-hunting public use from February 1 to October 14. It shall be further unlawful to enter the Vann's Lake Refuge with a firearm, except for special hunt permittees on the days of their hunt and during designated hunting periods and locations described above.

(D) A parcel described at Lots 9-10-12-13 and the SW/4 of the SW/4 of Section 6 T26N, R8W, Grant County known as the Van Osdol Wildlife Management Area.

(E) Any areas displaying signs with the words, "Safety Zone" shall prohibit anyone from the act of hunting within the boundaries of any area so marked. Retrieval of hunting dogs or downed wildlife is allowed, without any means of take.

(F) A parcel described as S/2 SW/4 SW/4 of Section 15; S/2 SE/4 of Section 16; NE/4 of Section 21 and W/2 NW/4 of Section 22 all in T26N R 19W, Woodward County known as the Selman Bat Cave Wildlife Management Area.

(8) **Conservation Education Area.** The primary purpose of the conservation education area is conservation education. All activities are strictly regulated by ODWC.

800:30-1-6. Littering [AMENDED]

Disposal of garbage, trash, refuse, litter, shotgun hulls and cartridge casings, sewage, debris or any other form of solid waste is prohibited on Department managed lands, except in designated trash containers.

800:30-1-16. Shooting ranges [AMENDED]

(a) On all Department owned or managed lands, the discharge of firearms for purposes other than while hunting is restricted to the specific target or shooting ranges provided for public use.

(1) Shooting ranges are open year-round, unless specified otherwise in the Oklahoma Fishing and Hunting ~~Guide~~Regulations or signs at the range.

(2) Shooting hours are official sunrise to thirty minutes after official sunset, daily.

(3) Any person using the shooting range under the age of 16 must be immediately supervised by an adult (18 years old or older).

(4) All firearms shooting single projectiles or any pellets larger than conventional BB (.180" dia.) must be shot at approved berms and target areas only. Air-borne clay targets may be shot using pellets no larger than conventional BB (.180" dia.).

(5) All rifle, pistol, shotgun, and muzzleloader targets will consist of paper or clay targets only.

(6) All paper targets must be removed before leaving the shooting area.

(7) Centerfire rifles and pistols .50 caliber and larger are prohibited.

(8) Fully automatic firearms are prohibited.

(9) Fireworks, explosive devices, exploding targets, tracer and incendiary rounds are prohibited.

(10) Eye and ear protection shall be worn while shooting.

(11) Shooters, and accompanying adult, must possess a valid State of Oklahoma hunting license, or State of Oklahoma combination hunting/fishing license unless exempt.

(12) ~~Do not shoot while another shooter is down range.~~ Shooting while another person is down range is prohibited.

(13) No person shall possess, consume, or use any intoxicating beverage or beer, as defined in Title 37, at any shooting range or shooting range parking areas.

(b) For Department shooting ranges that include an archery range~~area~~, the following shall apply:

(1) Archery range is open year-round, unless specified otherwise in the Oklahoma Fishing and Hunting ~~Guide~~Regulations or signs at the range.

(2) Shooting hours are official sunrise to thirty minutes after official sunset, daily.

(3) Any person using the archery range under the age of 16 must be immediately supervised by an adult (18 years or older.)

(4) Archers using the elevated platform must wear a safety harness meeting the standards of the Treestand Manufacturers Association and be attached to the platform at all times.

(5) Archers may only shoot at stationary targets.

(6) Archers must draw and release arrows or bolts from the tower or directly below the tower ONLY.

(7) All nocked arrows or bolts must point down range at all times.

(8) The archery tower is limited to 4 shooters at a time, no spectators are allowed on the archery tower.

(9) Shooting while another person is down range is prohibited. ~~Do not shoot while another archer is down range.~~

(10) Broadheads may only be used in designated lanes.

(11) Shooters and accompanying adults must possess a valid state of Oklahoma hunting license or state of Oklahoma combination hunting/fishing license unless exempt.

(12) Archery targets designed specifically for archery are allowed on the archery range. Archery targets must be removed after use.

(13) Only legal archery equipment is allowed on the archery range. ~~No firearms allowed on the archery range.~~

(14) No person shall possess, consume, or use any intoxicating beverage or beer, as defined in Title 37, at any shooting range or shooting range parking areas.

(c) Exemptions to (a) or (b) of this Section may only be granted by the Director of the Oklahoma Department of Wildlife Conservation upon prior submission of a written application setting forth the location, date, nature and purpose of such activity.

[OAR Docket #24-746; filed 7-3-24]

TITLE 810. OKLAHOMA WORKERS' COMPENSATION COMMISSION
CHAPTER 15. MEDICAL SERVICES

[OAR Docket #24-661]

RULEMAKING ACTION:
PERMANENT final adoption
RULES:
Subchapter 9. Independent Medical Examiners
810:15-9-1. Qualifications [AMENDED]
810:15-9-2. Application and appointment process [AMENDED]
810:15-9-5. Fees and costs [AMENDED]
AUTHORITY:
Oklahoma Workers' Compensation Commission; 85A O.S. §§ 19, 22, 50, 112
SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
December 18, 2023
COMMENT PERIOD:
January 16, 2024 through February 22, 2024
PUBLIC HEARING:
February 22, 2024
ADOPTION:
February 22, 2024
SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
February 23, 2024
LEGISLATIVE APPROVAL:
N/A
LEGISLATIVE DISAPPROVAL:
N/A
APPROVED BY GOVERNORS DECLARATION:
Approved by Governor's Declaration on June 21, 2024
FINAL ADOPTION:
June 21, 2024
EFFECTIVE:
August 14, 2024
SUPERSEDED EMERGENCY ACTIONS:
SUPERSEDED RULES:
N/A
GUBERNATORIAL APPROVAL:
N/A
REGISTER PUBLICATION:
N/A
DOCKET NUMBER:
N/A
INCORPORATIONS BY REFERENCE:
INCORPORATED STANDARDS:
N/A
INCORPORATING RULES:
N/A
AVAILABILITY:
N/A
GIST/ANALYSIS:

The amendments add an alternative application and qualification method for Independent Medical Examiners (IMEs) associated with university hospitals or health care provider groups, change the location of IME fee reimbursement amounts from the Commission's administrative rules to its Medical Fee Schedule, and correct a legal citation to remove an errant comma.

CONTACT PERSON:

Lauren Hammonds Johnson, Commission Executive Director & General Counsel, (405) 522-3222, LaurenH.Johnson@wcc.ok.gov

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(7) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 14, 2024:

SUBCHAPTER 9. INDEPENDENT MEDICAL EXAMINERS

810:15-9-1. Qualifications [AMENDED]

(a) The Commission shall maintain a list of private physicians to serve as independent medical examiners. The list shall be placed on the Commission's website at http://www.wcc.ok.gov.

(b) To be eligible for appointment by the Commission to the list of qualified independent medical examiners, and for retention on the list, the physician must:

(1) have a valid, unrestricted professional license as a physician which is not probationary;

(2) have at least three (3) years' experience and competency in the physician's specific field of expertise and in the treatment of work-related injuries;

(3) be knowledgeable of workers' compensation principles and the workers' compensation system in Oklahoma, as demonstrated by prior experience, and attending educational programming, on the Official Disability Guidelines, if a treating physician, and/or in the American Medical Association's "Guides to the Evaluation of Permanent Impairment," if a rating physician, or other continuing education courses related to workers' compensation topics;

(4) have in force and effect health care provider professional liability insurance from a domestic, foreign or alien insurer authorized to transact insurance in Oklahoma. The per claim and aggregate limits of the insurance must be at least One Million Dollars ($1,000,000.00); and

(5) have no felony conviction under federal or state law within seven (7) years before the date of the physician's application to serve as a qualified independent medical examiner.

(c) Alternatively, a physician may be eligible for appointment to the list of qualified medical examiners if the physician is affiliated with an Oklahoma university hospital or health care provider group that has entered into an agreement with the Commission to add any or all qualified physicians to the independent medical examiner list.

~~(c)~~(d) Physicians who are serving unexpired terms as qualified independent medical examiners for the Oklahoma Workers' Compensation Court on February 1, 2014 shall serve as qualified independent medical examiners for the Commission until their respective terms expire, unless voluntarily terminated by the physician or revoked by the Commission, and may reapply for successive qualification periods. The two year period in which to meet the educational requirement in 810:15-9-1(b)(3) commences with the independent medical examiner's first appointment or renewal after February 1, 2014.

810:15-9-2. Application and appointment process [AMENDED]

(a) **Appointment.** Appointment of physicians to the list of qualified independent medical examiners, and maintenance and periodic validation of such list shall be by the Commission. Physician appointments shall be for a two-year period.

(b) **Application for appointment.** To request appointment to the list of qualified independent medical examiners, a physician shall:

(1) Submit a signed and completed Commission prescribed IME Application and Physician Disclosure forms to the following address: Oklahoma Workers' Compensation Commission, Attention: HEALTH SERVICES DIVISION, 1915 North Stiles Avenue, Oklahoma City, Oklahoma 73105. Illegible, incomplete or unsigned applications and disclosures will not be considered by the Commission and shall be returned. A copy of the IME Application and Physician Disclosure forms may be obtained from the Commission at the address set forth in this Paragraph, or from the Commission's website at http://www.wcc.ok.gov;

(2) Submit a current curriculum vitae, together with the IME Application and Physician Disclosure forms, to the address set forth in the preceding Paragraph; and

(3) Verify that the physician, if appointed, will:

(A) provide independent, impartial and objective medical findings in all cases that come before the physician;
(B) decline a request to serve as an independent medical examiner only for good cause shown;
(C) conduct an examination, if necessary, within forty-five (45) calendar days from the date of the order appointing the examiner, unless otherwise approved by the Commission, when necessary to render findings on the questions and issues submitted;
(D) prepare a written report in accordance with Commission rules which addresses the issues set out in the order of appointment;
(E) submit the report to the parties and the Commission within fourteen (14) calendar days of a required examination of the claimant and/or completion of necessary tests, or within fourteen (14) calendar days after receipt of necessary records and information if no examination and/or tests are required;
(F) accept as payment in full for services rendered as an independent medical examiner the fees established pursuant to ~~810:15-9-5~~the Fee Schedule;
(G) submit to a review pursuant to 810:15-9-3 and 85A O.S.~~,~~ § 112(H);
(H) submit annually to the Commission written verification of valid health care provider professional liability insurance as and if required in 810:15-9-1;
(I) notify the Commission in writing upon any change affecting the physician's qualifications as provided in 810:15-9-1; and
(J) comply with all applicable statutes and Commission rules.

(c) **Disclosure.** As part of the IME Application, the physician shall identify, on the Physician Disclosure form, any ownership or interest in a health care facility, business or diagnostic center that is not the physician's primary place of business, including any employee leasing arrangement between the physician and any health care facility that is not the physician's primary place of business. Failure to do so is grounds for the Commission to disqualify the physician from providing treatment under the AWCA.

(d) **Alternative group application agreement.** Appointment of physicians to the list of qualified independent medical examiners may also be made by agreement, pursuant to 810:15-9-1(c).

810:15-9-5. Fees and costs [AMENDED]

(a) Fees for services performed by a Commission appointed independent medical examiner shall be paid according to the ~~following schedule~~ Fee Schedule:

~~(1) Diagnostic tests relevant to the questions or issues in dispute shall be paid by the employer or insurance carrier in accordance with the Oklahoma workers' compensation fee schedule, provided, diagnostic tests repeated sooner than six (6) months from the date of the test are not authorized for payment unless agreed to by the parties or ordered by the Commission for good cause shown.~~

~~(2) The review of records and information, including any treating physician evaluation and/or medical reports submitted by the parties, the performance of any necessary examinations, and the preparation of a written report as prescribed by Commission rules, shall be billed at the physician's usual and customary rate, not to exceed Three Hundred Dollars ($300.00) per hour or any portion thereof, not to exceed a maximum reimbursement of One Thousand Six Hundred Dollars ($1,600.00) per case. The Commission may permit exception to this provision, for good cause shown. Subject to reimbursement if appropriate, these costs shall be billed to, and initially paid by, the respondent.~~

~~(3) Reimbursement for medical testimony given in person or by deposition shall be paid by the employer or insurance carrier in accordance with the independent medical examiner's usual and customary charges, not to exceed Four Hundred Dollars ($400.00) per hour or any portion thereof, plus an allowance of One Hundred Dollars ($100.00) for 15 minute increments thereafter. Preparation time shall be reimbursed at the examiner's usual and customary charge, not to exceed Four Hundred Dollars ($400.00). A Four Hundred Dollar ($400.00) charge is allowable whenever a deposition or scheduled testimony is canceled by any party within three working days before the scheduled start of the deposition or scheduled testimony. The party canceling the deposition or scheduled testimony is responsible for the incurred cost. No physician may receive more than Four Hundred Dollars ($400.00) in advance in order to schedule a deposition. The advance payment shall be applied against amounts owed for testimony fees. The Commission may permit exception to these provisions, for good cause shown.~~

~~(4) Amounts owed to the independent medical examiner for services are payable upon submission of the examiner's written report.~~

~~(5) The independent medical examiner may charge and receive up to Two Hundred Dollars ($200.00), to be paid initially by the employer or insurance carrier in the event the employee fails to appear for any scheduled examination, or if the examination is canceled by the employee or the respondent within forty-eight (48) hours of the scheduled time. The employer or insurance carrier shall be reimbursed by the employee if the failure to appear or the cancellation by the employee was without good cause. The independent medical examiner may not assess a cancellation charge for appointments canceled by the examiner.~~

(b) Failure to timely pay a Commission appointed independent medical examiner for services rendered pursuant to Commission order may result in the imposition of assessments or sanctions at the discretion of the administrative law judge or Commission, including a fine for contempt as provided in 85A O.S. § 73(B). Disputes regarding payment for services rendered by a Commission appointed independent medical examiner that cannot be resolved by the examiner and the parties themselves, may be addressed by filing a request for hearing before an administrative law judge of the Commission as provided in 810:10-5-16, or by mediation, as appropriate.

[OAR Docket #24-661; filed 6-25-24]

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) alendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2024-12A.

EXECUTIVE ORDER 2024-12A

WHEREAS, it is a practice of good governance to steward taxpayer dollars well; and

WHEREAS, the taxpayers should never foot the bill for the political ambition of an individual, regardless of his or her position in state government; and

WHEREAS, the use of taxpayer funds for campaign purposes is already a violation of state law; and

WHEREAS, any communications distributed by state agencies, state agency directors, and/or state employees should be in service to the people of Oklahoma and the State's interest; and

WHEREAS, any contract with a public relations firm should keep the Oklahoma taxpayer as the top priority; and

WHEREAS, public relations contracts should not be used as fronts for lobbying or advocacy campaigns against state efforts.

NOW THEREFORE, I, J. Kevin Stitt, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution, and to the fullest extent permitted by law, hereby order as follows:

1. "State agencies"[1] are hereby prohibited from entering into sole source contracts exceeding $25,000.00 with PR/marketing/communications Vendors (hereinafter "PR Vendor" or "PR Vendors"). Instead, notwithstanding any statutory exemption or directive to the contrary, all contracts with PR Vendors exceeding $25,000.00 shall be procured only through a minimum 30-day request for proposal ("RFP") process.

    a. Any PR Vendor agreement exceeding $25,000.00 currently in place that was secured via sole source shall not be renewed and shall terminate at the end of the current contractual term. If the service of the PR Vendor is necessary to continue, then such service must be procured via the process outlined in Section 1 above. Further, if the sole source contract provides for early termination, notice of termination should be given by the state agency no later than ninety (90) days from the date of this Executive Order.

2. No PR vendor shall have an active contract related to a campaign-related matter (i.e., candidates or issues/questions that will appear on a ballot), state question initiative, or policy-based 501(c)(4) associated in any way with the contracting agency or its officer(s), employees, or contractors at the time of the PR vendor's bid submission to an RFP for PR/marketing/communications nor during the term of any resulting contract.

3. Any evidence of unregistered lobbying shall be reported to the Ethics Commission for review and resolution.

    a. If a PR Vendor is caught participating in unregistered lobbying, as defined by the Ethics Commission, the contract shall be immediately terminated by the government agency.

    b. OMES must immediately include language in all new PR Vendor contracts to allow agencies to immediately vacate contracts, with no more than ten (10) days' notice if the reason is for a PR Vendor or a PR Vendor employee, in an unofficial capacity, being caught violating the lobbying clause.

4. No state agency shall contract with PR Vendors that also employ registered lobbyists.

5. PR Vendors shall be contracted to execute clearly defined objectives only, as outlined in the RFP. All such objectives shall advance the mission and service delivery of the state agency for the State of Oklahoma.

6. No state agency, director of a state agency, or any state employee shall use any tax dollars, spent in- or outside the state, for the purpose of self-promotion or for the promotion of any matter outside the scope of the state agency.

7. If any provision of this Executive Order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of the Executive Order and the applicability of its other provisions to any other persons or circumstances shall not be affected thereby.

8. This Executive Order shall be distributed to the Director of OMES, the directors of all state agencies, and my advisors.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 28th day of June, 2024.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA
J. KEVIN STITT

ATTEST:
Josh Cockroft
SECRETARY OF STATE

[1] In this Executive Order, "state agency" means, as it does in 61 O.S. § 327(A), "any department, board, commission, institution, or agency or entity of state government."

[OAR Docket #24-709; filed 6-28-24]